84-390

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ALEXANDER L. STEVAS,
CLERK

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1984

No.

LEON S. WOLK.

Petitioner,

vs

SUPREME COURT OF NEW JERSEY,

Respondent

PETITION FOR A WRIT OF CERTIORARI TO

THE SUPREME COURT OF NEW JERSEY

Leon S. Wolk
Petitioner pro se
260 Nagle Street
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32 pp

QUESTIONS PRESENTED FOR REVIEW

I

Where the Supreme Court of New Jersey, by denial of motion for reinstatement on May 8, 1984, has thereby reaffirmed its decision of disbarment dated April 3, 1980, In re Wolk, 82 N.J. 326 (1980), and where petitioner appearing pro se and while incompetent ignores a show cause order for reciprocal disbarment issued by the United States District Court For The District Of New Jersey, Misc. 80-25, wherein petitioner had been derivatively admitted to practice as an attorney, and as a result was disbarred, but petitioner appearing pro se and while incompetent did respond to show cause order for reciprocal disbarment issued by this Court, No. D-187, but was reciprocally disbarred on December 1, 1980, but said show cause order, was stayed, based upon petitioner's response thereto, by the United States District Court For The District Of Columbia, Attorney Grievance Docket No. 80-2, wherein petitioner separately had been admitted by examination, which disciplinary proceeding is

still pending, and where petitioner after intensive psychotherapy is now competent, the United States Supreme Court by reason of Constitutional defects in State disbarment proceeding and in the excercise of its jurisdiction over the federal bar and the United Supreme Court bar, should not this Court in the alternative order the following;

(I) grant the petition for a writ of certiorari to the Supreme Court of New Jersey but defer briefing until final determination of the United States District Court For The District Of Columbia, or

(II) defer the decision on the within petition until the final decision of the United States District Court For The District Of Columbia, and

(III) grant petitioner leave to expand and or file supplement to within petition and appendix to include pending proceeding in District of Columbia?

II

Whether a Constitutionally defective disbar-

ment of an attorney by the highest court of the State of New Jersey, is lawful.

III

Whether disbarment by the Supreme Court of New Jersey which is repugnant to the Constitution of the United States should be allowed to provide the basis for reciprocal disbarment by the United States Supreme Court and the federal bar.

IV

Where an attorney in a quasi criminal disciplinary proceedings is allowed while mentally incompetent to appear pro se before the New Jersey Disciplinary Review Board and the Supreme Court of New Jersey is there a denial of right to counsel, due process and fundamental fairness under the United States Constitution U.S.C. Const. Amend 5th,6th and 14th.

V

Whether the application in 1980, of retroactively, a new more severe discipline of disbarment of an attorney for unethical misconduct committed during a period from 1973 through

1977 is repugnant to the Constitutional right of equal protection of the laws and prohibition against ex post facto laws, U.S.C. Const. Art.1 sec.9,cl.3, Art1 sec.10,cl.1., Amend. 5th, 6th and 14th.

VI

Whether petitioner's mental incompetency when reciprocally disbarred by this Court and the federal bar, United States District Court For the District Of New Jersey, which mental incompetence existed at the time of the acts of misconduct and continued through the time of the disciplinary proceedings, and after intensive pshychotherapy regained competency was and is a matter of mitigation not previously considered by this Court, although relevant on the issue of appropriate discipline to be imposed as well as a meritorious defense, was the failure so to do by the Supreme Court of New Jersey a denial of fundamental fairness, due process, equal protection of the law, right to counsel under the Constitution of the United States and considering all of the facts and circumstances includ-

ing disbarment since April 3, 1980, intensive psychotherapy and regained competency, should not petitioner be reinstated to the bar of this Court and the federal bar?

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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1984

No.

LEON S. WOLK, Petitioner

vs.

SUPREME COURT OF NEW JERSEY,

Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF NEW JERSEY

The petitioner, Leon S. Wolk, appearing pro se respectfully prays that a writ of certiorari issue to review the order of disbarment and opinion of the Supreme Court of New Jersey dated April 3, 1980 and its order denying motion for reinstatement dated May 8, 1984.

OPINIONS BELOW

The opinion of the Supreme Court of New Jersey (Appendix, A-1) is reported at 82 N.J. 326. The order of disbarment (Appendix, C-1) is dated April 3, 1980. The order denying

motion for reinstatement is dated May 8, 1984 (Appendix D-1), and is unreported.

GROUNDS ON WHICH THE JURISDICTION OF THE SUPREME COURT OF THE UNITED STATES IS INVOKED

The order of disbarment was entered by the Supreme Court of New Jersey, the highest court of the State, on April 3, 1980 and is reported at 82 N.J. 326. (A-1,C-1). The order denying motion for reinstatement is dated May 8, 1984 (D-1). The petition for a writ of certiorari was filed within 90 days of that date. This Court's jurisdiction is invoked under 28 U.S.C. sec.1257 (3). The Orders of the Supreme Court of New Jersey are Constitutionally repugnant.

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STATEMENT OF THE CASE

Petitioner was admitted by examination to the bar of the United States District Court For The District of Columbia and based upon said license became a commissioned officer of the United States Air Force, Judge Advocate General's Department and served on active duty for three years. Upon honorable discharge, petitioner by examination was admitted to the bar of the State of New Jersey and was thereafter derivatively admitted to the bar of the United States Supreme Court and to the bar of the United States District Court For The District of New Jersey.

Petitioner was charged with unethical acts of misconduct ("Stern Complaint") and thereafter and while the disposition of that complaint was still pending petitioner was charged with unethical act of misconduct ("Hamburger Complaint"). Petitioner appeared with counsel on the first ethics complaint but appeared pro se on the second ethics complaint, the New Jersey Supreme Court Disciplinary Board of Review

("Board") and the New Jersey Supreme Court.. Petitioner was incompetent beginning in 1972 and continuing beyond April 3, 1980.

Both ethics cases were consolidated for disposition before the "Board" where the petitioner appeared pro se and raised the issue of his incompetence by demeanor, argument and brief (H-1,I-1-I-3). Petitioner contended that he was suffering from deep depression, however the "Board" allowed the cases to continue with petitioner appearing pro se and unanimously recommended disbarment. (H-1 - H-11, compare H-3 - H-4). The "Board" concluded that petitioner's contention of incompetence was incredible,

> "...the Board pays little moment to respondent's contention, raised for the first time at the hearing before the Board, that he was suffering from severe depression ..." B-2)

Petitioner appeared pro se before the Supreme Court of New Jersey where again he raised the issue of his incompetence, in his demeanor, brief and argument (I-1). He

described his condition as severe depression which had existed during the time of the acts of misconduct and continued during the time of argument before the highest court of the State (I-1). Both a forensic psychiatrist and a treating psychiatrist would conclude petitioner was incompetent (M-5, M-19). The highest court of the State disbarred petitioner on April 8, 1980 (C-1). Petitioner received psychotherapy and upon being again competent, appearing pro se filed a motion for reinstatement (K-1) to the Supreme Court of New Jersey on April 27, 1984. Said motion was supported by a brief, raising Constitutional issues (L-1) and an appendix containing a medical expert report of a forensic psychiatrist, Dr. Lowell (M-19) and treating psychiatrist, Dr. Papowitz (M-5). These reports corroborate petitioner pro se contention that at all times relevant he had been and was suffering from severe depression which the psychiatrists concluded was mental incompetence (M-5, M-19). The brief filed with the Supreme Court of New Jersey raised below

all of the Constitutional issues contained in the within petition (L-1).

Petitioner appeared pro se before the "Board" (H-1) and the Supreme Court of New Jersey (J-1). Both the "Board" and the highest court of the State had the jurisdiction to order petitioner to submit to a psychiatric examination but both rejected the issue and he was disbarred for acts of misconduct including acts of intent to defraud, (X-1,A-1,C-1,B-1). The Supreme Court of New Jersey concluded

> "...Respondent's contention (of his) ...depression ... (is) ... grasping, selfserving and of no relevance to his offense..." 82 N.J. 330 (parenthetical inserts supplied)

Both the "Board" and the highest court of State disposed of the issue of petitioner's mental incompetence on a theory of waiver or relevance or credibility. When petitioner's pro se contention was corroborated by medical expert opinion in motion for reinstatement

(K-1, L-1, M-1), brief and appendix, filed on April 27, 1984 a summary decision of denial was rendered on May 8, 1984. (Compare K-1, L-1, M-1 and D-1). Thus in both the original hearings in 1979 and 1980 and again in 1984 the "Board" and the highest court in the State chose to ignore the issue of petitioner's mental incompetence or held to the effect that in the case sub judice a mentally incompetent petitioner appearing pro se can waive the issue and can waive his right to independent competent counsel.

It is Constitutionally repugnant to hold in effect that a mental incompetent petitioner appearing pro se was competent to waive his right to independent competent counsel and was competent to represent himself and that he was competent to waive the issue by not having introduced evidence of his own mental incompetence by expert testimonial evidence while appearing pro se. Clearly the record below supports the conclusion that the disbarment is Constitution-

ally repugnant.

Petitioner appearing pro se and while mentally incompetent responded to Order To Show Cause issued by this Court and the United States District Court For The District Of Columbia (E-1) but petitioner ignored an Order To Show Cause issued by the United States District Court For The District of New Jersey, all of which had as their objective the reciprocal disbarment based upon disbarment by the Supreme Court of New Jersey. Petitioner was disbarred reciprocally by this Court (G-1) and in the federal bar in New Jersey in 1980, Misc. No. 80-25. The United States District Court For The District of Columbia, however, granted a stay of reciprocal disbarment and proceeding is still pending (E-1, O-1, P-1, Q-1) Attorney Grievance Docket No. 80-2. It was necessary, however, to file the within petition within 90 days of May 8, 1984 and prior to receipt of a final decision on the issue of reciprocal disbarment pending in the District of Columbia under Rule 4-3(II. This

Court should vacate its disbarment Order under Rule 8. The issue of petitioner's mental incompetence was raised by his demeanor before Judge Stern and the Ethics Committees. Petitioner failed to respond to the Order To Show Cause for reciprocal disbarment issued by the United States District Court For the District of New Jersey and was disbarred in 1980, Misc. No. 80-25. Petitioner while mentally incompetent ignored this proceeding because he believed that he would be denied a fair and impartial hearing in a United District Court where one of the complainant's against him was Judge Herbert Stern presiding in that very court and the Chairman of the "Board" was Dickinson R. Debevoise, who shortly after rendering the decision and recommendation of disbarment decided on September 19, 1979 but dated October 4, 1979, was himself appointed a Judge of the same United States District Court For The District of New Jersey on November 2, 1979. Fearing what petitioner while mentally incompetent perceived to be the bias

and hostility and prejudice of both Judge Stern and Judge Debevoise he elected to ignore the proceeding for his reciprocal disbarment. This Court should review the forensic psychiatrist's report regarding petitioner's perception of reality in 1980. Compare the press release of Judge Stern dated December 22, 1976, while his ethics complaint was still pending (N-1) with Dr. Lowell's comments (M-19,20,42-47,53,58-59,69-70,73-75,79-88,89,90,M-95-103,104-113).

The Constitutional issues raised below are as follows:

-denial of due process wherein a mentally incompetent petitioner was allowed to appear pro se,

-denial of right to independent competent counsel in a quasi criminal proceeding that is an attorney disciplinary proceeding,

-denial of equal protection of the laws,

-violation of the prohibition against ex post facto laws, and

-denial of fundamental fairness.

The conclusion of treating medical psychiatrist, Eugene B. Papowitz, M.D. that respondent,

> "...was suffering from a severe and incapacitating psychiatric illness during the events which led to his disbarment. ...(and that) ... he was incompetent mentally to practice law or to conduct his own defense ... (and the) ... offenses he committed and for which he was disbarred were the result of mental illness ...".
> (Complete report annexed hereto, parenthetical insert supplied) Appendix, M-16).

Petitioner's contention of mental incompetence both at the time of the occurrence of the acts of misconduct and at the time of the hearings before the "Board" and the Supreme Court of New Jersey are further corroberated by the forensic medical psychiatric report of Edward H. Lowell, M.D. which conclusion in part states,

> "...(that respondent) at this time is suffering from a substantial mental disturbance of a complex nature ... that conclusion is unqualifiedly corroborated by the psychometric examinations performed which reveal paranoid schizophrenic fea-

tures with severe depressive overtone, a labile stability with potential decompensation, interference with mental processes and severe inroads in the area of judgement. ... (and that) this illness existed prior to, during, after and since the time of his condemned behavior, and most certainly during the time of the charges against him and his defense of those charges. ..."
(parenthetical inserts supplied)
(Appendix, M-24, M-25).

ARGUMENT IN SUPPORT OF GRANTING OF THE WRIT

The decision of disbarment by the highest court of the State of New Jersey is repugnant with the United States Constitution and in conflict with applicable decisions of this Court, reaffirmed by denial of motion.

The Supreme Court of New Jersey and its Disciplinary Review Board have held in effect that the issue of mental incompetence of petitioner appearing pro se in a quasi criminal attorney disciplinary proceeding, may be waived, lacks relevance, and that right to independent competent counsel may be waived while incompetent.

New York ex rel. Bryant v. Zimmerman, 278 U.S. 63,67

> "... if the record as a whole shows either expressly or by clear intendment that this was done, the claim is to be regarded as having been adequately presented."

Massey v. Moore, 348 U.S. 105 holding to the effect that an insane man tried without counsel cannot be held to the requirement of tendering the issue of his insanity at the trial

and the Constitutional right is not waived.

> "... No trial can be fair that leaves the defense to a man who is insane, unaided by counsel, and who by reason of his mental condition stands helpless and alone before the court ..." p. 108

See also Wade v. Mayo, 334 U.S. 672,684

> "...Where such (mental incapacity)is present, the refusal to appoint counsel is a denial of due process under the Fourteenth Amendment. ..." (parenthetical insert supplied).

This Court has held that reciprocal disbarment is not automatic and a disciplinary proceeding is quasi criminal, affording a Constitutional right to due process. Theard v. United States, 354 U.S. 279, Faretta v. California, 422 U.S. 806, In re Ruffalo, 390 U.S. 544, In re Gault, 387 U.S. 1, Spevack v. Klein, 385 U.S. 511, Selling v. Radford, 243 U.S. 46. The requirement of due process must be met in a State disbarment proceeding. Willner v. Committee on Character, 373 U.S. 96, 102, Rule 8, In re Isserman, 345 U.S. 286 rev'd, 348 U.S.

1, compare United District Court For The District of Columbia Rule 4-3(II) (d). The disbarment by the Supreme Court of New Jersey ar' its reaffirmance in the denial of motion to reinstate are Constitutionally repugnant and should not afford the basis for reciprocal disbarment by this Court, Rule 8, nor from the federal bar. The within writ should be granted to reaffirm even a disbarred former attorney is entitled to the right to due process, independent counsel, fundamental fairness, equal protection of the laws and protection against ex post facto retroactive application of a more stringent discipline of disbarment of an attorney for unethical conduct committed during a period from 1973 through 1977 in 1980 than had ever previously been imposed for similar acts of misconduct. U.S.C. Const..Art. 1 sec.9 cl.3, Art 1 sec.10 cl.1, Amend. 5th, Amend 6th, Amend. 14th, Marks v. United States, 430 U.S. 188, Lanzetta v. New Jersey, 306 U.S. 451,453, Bowie v. City of Columbia, 378 U.S. 347, Rabe v. Washington, 405

U.S. 313. In re Smock 89 N.J. 426 where the Supreme Court of New Jersey recognized that it would be unfair to apply a more stringent discipline of disbarment retroactively to misconduct that had occurred prior to rendering of a more stringent rule. In the case sub judice the highest court of the State of New Jersey violated its own concept of fairness as well the standard imposed by the Constitution of The United States. Petitioner contends that a review of all of the disciplinary cases decided in New Jersey by its highest court for similar or even more serious acts of misconduct (assuming per arguendo but not conceeding that mental incompetence is not relevant on the issue of meritorious defense or in mitigation) fails to reveal the imposition of disbarment to other attorneys. Compare In re Wolk 82 N.J. 326, DR 1-102 (4-6), DR 5-104 (A), DR 5-105 (B),(C), DR 7-102 (A) (5) with disciplinary standards imposed at time of acts of misconduct from 1973 through 1977. Compare In re Sears, (1976) 71 N.J. 175,

suspension for three years where misconduct included attempt to influence S.E.C. investigation and giving false testimony, In re Shamy, (1977) 73 N.J. 187 one year suspension for execution of false affidavits, In re Hurd, (1976) 69 N.J. 316 three month suspension for arranging a loan whereby realty is conveyed from longtime unsophisticated friend and failure to seek independent counsel where conveyance is made to attorney's sister for 20% of its value, In re Caruso, (1975) 67 N.J. 44 suspension for three years for conviction for obtaining money under false pretenses and soliciting another to commit a crime, In re McNally, (1979) 81 N.J. 304 suspension for two years for forging a sheriff's name to a deed of foreclosure and fraudulently witnessing document, In re Schleimer, (1978) 78 N.J. 317 one year suspension for conviction for false swearing, In re Rosen, (1981) 87 N.J. 572 suspension for two years for lying to a grand jury.

In the case sub judice the Supreme Court of New Jersey disposed of petitioner's contention that he was suffering from severe depression by ignoring its own Rules of Procedure, R.1:20-2(f), R1:20-3(f) and R1:20-11(b), (c). Further the highest court of the State of New Jersey cited In re McManus (1978) 75 N.J. 238 for holding that the issue of mental incompetence "... is grasping, selfserving and of no relevance to his offense..." In re Wolk supra p. 330 in the McManus case supra in a footnote on page 241 the New Jersey Supreme Court expresses an attitude of scepticism towards the issue of mental disorder as a meritorious defense to a charge of ethical misconduct and holding that this issue is "...discretionary..." is contrary to the decisions of this Court holding to the effect Spevack v. Klein supra p. 518. In other cases the Supreme Court of New Jersey did recognize that mental incompetence was at least a mitigating circumstance but not in the case sub judice. Compare, In re Dreier (1983) 94 N.J. 396,399,

In re Infinito, (1983) 94 N.J. 50,57-58, In re Barry, (1982) 90 N.J. 286, In re Goldstaub (1982) 90 N.J. 1, 5, In re Barrett (1982) 88 N.J. 450,458-459. In re Greenberg (1956) 21 N.J. 213, In re M, (1971) 59 N.J. 304, In re Gelzer (1960) 31 N.J. 542, In re Rosenblatt, (1972) 60 N.J. 505, In re Ferraro, (1969) 53 N.J. 183, In re Boyle, (1966) 47 N.J. 58, In re Harris (1915) 88 N.J.L. 18.R.1:20-2(f), R.1:20-3(f), R.1:20-11(b), (c). In re Smock,89 N.J. 426.

In the case sub judice alone is the punishment of disbarment imposed retroactively where in similar acts of misconduct particularly where there was a mental or psychological issue it is considered as a matter in mitigation and a less severe discipline was imposed. A review of decisions in other similar disciplinary cases leads to the conclusion that disbarment of petitioner reaffirmed by summary denial of motion for reinstatement is Constitutionally repugnant and this Court should grant the within petition for a writ of certiorari and grant the motions

to allow even a disbarred former attorney who was mentally incompetent during acts of misconduct which continued during disciplinary proceedings, to be afforded rights, privileges and immunities as guaranteed under the Constitution of the United States, 28 U.S.C. Rule 8 and the jurisdiction of this Court over its Bar and the federal bar.

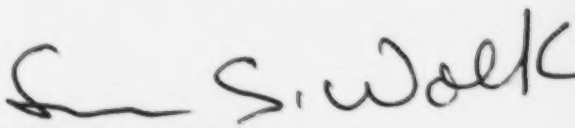
The Supreme Court of New Jersey and its "Board" and its Ethics Committees, ignored New Jersey Rules of Procedure,R.1-:20-2(f),R.1:20-3(f) R. 1:20-11(b) (c), New Jersey Statutes,N.J.S. 2C:4-1,2C:4-2,2C:4-4(a)2C:4-6,the New Jersey Constitution, N.J.S.Const. Art.1,par.1,Art.1, par.10,Art.4,sec. 7,par.3,Art.6,sec.2,par.3 and the United States Constitution, U.S.C. Const. Art. 1,sec. 9, cl.3,Art.1,sec.10,cl.1, Amend- 5th, 6th and 14th. Petitioner's disbarment by the Supreme Court of New Jersey is Constitutionally repugnant and should not be the basis for reciprocal disbarment by this Court, the federal courts and the Writ of Certiorari should be granted.

CONCLUSION

By reason of all of the aforesaid the within petition for a writ of certiorari to the Supreme Court of New Jersey should issue to review its order of disbarment and its reaffirmance by denial of motion to reinstate.

Dated August 1984

Respectfully submitted,



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APPENDIX TO PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF NEW JERSEY

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100pp

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IN THE MATTER OF LEON S. WOLK,

AN ATTORNEY AT LAW

Argued December 11, 1979

Decided April 3, 1980

Richard J. Engelhardt, Staff Attorney, argued the cause for the Disciplinary Review Board.

Leon S. Wolk argued pro se.

PER CURIAM.

[1] Respondent's conduct is before this Court on two unrelated complaints. In one, respondent attempted to commit a fraud on a federal district court and

his clients in order to secure a larger legal fee than that to which he was entitled. In the other, he represented his client in a business matter in which he was personally involved. He counselled her to make a hopeless investment in a building in which he had an interest, and concealed material information from her, including the fact of a foreclosure and sheriff's sale on that building.

The attempted fraud, a gross intentional exaggeration of services rendered was outrageous. The deceit and exploitation of a helpless, recently widowed client was inexcusable. The Disciplinary Review Board recommended disbarment. We agree.

WALKER MATTER

This matter arose during a personal injury suit in federal court in 1973 and 1974. The suit arose from an incident in which a 400-pound steel beam was dropped from a truck, crushing an eight-year-old boy and permanently paralyzing him from the chest down. The boy's parents retained respondent, on a contingent fee basis, to represent both the child and them. Later, perceiving a possible conflict of interest between the interests of the infant and his parents as to the nature and management of a possible settlement, the district

court relieved respondent as the child's attorney and appointed another attorney as guardian ad litem for the child. Respondent was distressed with that action, especially its impact on what he had assumed would be a lucrative contingent fee arrangement based on the child's recovery.

Respondent represented the parents at trial. The court-appointed guardian represented the child and served as trial counsel. After a jury had been selected and testimony had begun, defendant's insuror settled the claims of both parents and the child. The child

received a gross settlement of $1 million in cash, plus an undertaking by the insuror to pay all future accident-related medical expenses. The parents received a gross settlement of $177,800.

Following approval of the settlement, the district court directed respondent and the guardian ad litem to file affidavits of services so that the court might approve allowance of counsel fees to them from the infant's recovery.

This written request was dated June 23, 1975.[1] The district court made it clear that the contingent fee arrangement (which would have resulted in about $130,000 in fees for respondent if, as

1. The request provided that the affidavits take into account the factors enumerated in Lindy Bros. Bldrs., Inc. v. American R.R. Sand Corp., 487 F2d 161 (3d Cir. 1973). These are the amount of time spent at a reasonable hourly value for the particular attorney, the nature of the activity, id. at 162 the contingent nature of success (i.e., the likelihood of recovery), and the quality of the attorney's work (bearing on the complexity and novelty of the issues presented, the attorney's work as observed by the judge, and the amount of the recovery) Id. at 166-169.

the record suggests the schedule in R1:21-7 were applicable) would have nothing to do with respondent's compensation for his services on behalf of the infant, although it did apply to his services for the parents. On August 13, 1975, respondent filed an affidavit in which he claimed a fee of $162,500. This claim was based on an asserted total of 3,000 hours spent on the case, of which 1,522 hours were itemized. The Disciplinary Review Board found that this affidavit contained misstatement of fact and exaggerations as to the quantum and value of respondent's

services. For example, during one five-day period in April, 1975, respondent claimed he worked a total of over 117 hours as follows:

Friday	April 11, 1975	33 1/4 hours
Saturday	April 12, 1975	17 1/2 hours
Sunday	April 13, 1975	24 3/4 hours
Monday	April 14, 1975	20 1/2 hours
Tuesday	April 15, 1975	20 3/4 hours

In addition, respondent asserted that he had spent 160 hours conferring with another attorney in preparing the case, and that this attorney spent 360 hours on related legal research and other

matters. However, this other attorney testified to the District Ethics Committee that he had spent 36 hours on the case, and had submitted a statement to that effect to respondent in April, 1975. Respondent conceded at the hearing that the other attorney's recollection was accurate.

Respondent also submitted a claim for 150 hours of a paraprofessional's time, specified in the affidavit as consultations as to "economic-actuarial and statistical data" and discussions of "prospective jury profile and exercise

of challenges." Respondent provided no written memoranda of such conferences nor any explanation to the Committee beyond a statement that he remembered discussing the case with the paraprofessional. The claim of 150 hours was not only completely unsubstantiated, but respondent had no reason to believe the time spent even approached 150 hours.

Respondent was directed by a court to prepare an affidavit of services. Relying on the contingent fee arrangement, respondent had kept no time records other than the occasional note

of an appointment. Respondent had, however, 40 days in which to make an honest effort to reconstruct his time from dates on correspondence and court papers, his office diary and the recollections of those with whom he conferred. The affidavit that he submitted shows that he failed to make such an effort. Even given respondent's contention that his affidavit represented an estimate, it is fair to conclude that the affidavit was so recklessly prepared as to amount to a knowing misrepresentation. The misstatements and exaggerations contained in this affidavit show a wanton disregard for an attorney's obli-

gation both to his clients and to the court. See DR1-102(A)(4)(5); DR7-102(A)(5).

Had respondent's fabricated affidavit of services not been subjected to the scrupulous analysis of a conscientious trial judge, respondent might have been paid $100,000 for legal services he did not perform.[2] Respondent's conten-

2. Based on its own evaluation of the legal services actually performed, the district court awarded $60,000 to respondent, as compared to the $182,500 that respondent had requested. From this $60,000, the district court deducted $34,746.66 that the parents-plaintiffs had already paid respondent pursuant to their contingent retainer agreement. Thus, from the recovery of the infant plaintiff, respondent was awarded $25,253.34.

tion that he viewed the requested $162,500 as, in effect, compensation for the emotional pain and depression resulting from his replacement as trial counsel and as attorney for the infant plaintiff, is grasping, self-serving and of no relevance to his offense. In re McManus, 75 N.J. 238 (1978). Respondent already knew that he was not entitled to the hoped-for contingent fee.

> The court has the right to rely upon the integrity of its officers. The legal profession is a confidential one, with a double duty upon its members viz., utmost good faith toward

> both client and court. A lawyer who seeks by trick or by deception to impose upon either his client or the court is unfitted to advise the one or to appear before the other. He desecrates the temple of Justice. [In re Cahill, 66 N.J.L. 527,530 (Sup. Ct. 1901)].

Respondent attempted fraudulently to manipulate the court to enrich himself at the expense of a paralyzed eight-year-old plaintiff.

HAMBURGER MATTER

Late in 1973, the complainant, a

widow, retained respondent as attorney for her husband's estate, valued at approximately $65,000. Respondent, who had represented the husband during his life, had also been named executor of the estate. Approximately two months after her husband's death, the widow asked respondent to suggest an appropriate investment for a portion of her inheritance. Respondent suggested that she invest $10,000 in a second mortgage

on a multi-family dwelling[3] in Hoboken owned by the First Fort Lee Mortgage Company. Before closing the loan, respondent informed the widow that he was a stockholder and officer of the Company. It is unclear whether respondent gave her this information when the investment was first discussed or at the point of closing the loan. In fact, re-

3. The complainant's testimony at the District Ethics Committee hearing indicated that she had the impression that the building was a garden apartment complex. In fact it was a three-story building in a depressed area, consisting of six apartments with one common toilet on each floor. The complainant apparently did not go to look at the building before making the investment.

spondent owned a 25 percent interest in the First Fort Lee Mortgage Company and was its president as well as its attorney. Respondent testified that he advised the widow to seek independent legal advice before making the loan. The record establishes, however, that that she relied solely on his legal representation. Respondent further testified that he counseled her to seek independent investment advice, and the record shows that she did engage in some discussion of the proposed investment with her adult son, then in the children's clothing business.

Respondent prepared the bond and mortgage and closed the loan. The mortgage provided that it would be subordinated to a new first mortgage, not yet obtained and without limit as to amount. Respondent apparently never explained the significance of the subordination provision to his client. Moreover, at no time did he disclose to his client that his building which was the security for her $10,000 second mortgage had been purchased only eight months earlier by his corporation for a total of $8,000, consisting of $5,000 cash and a $3,000 purchase money mortgage, and that 1973 real estate taxes on the property had

not been paid. Additionally, he did not conduct a title search, did not provide an affidavit of title in the usual form, and did not reveal the actual condition of the property.[4]

In January 1975, respondent's corporation, First Fort Lee Mortgage Company, was sued in a foreclosure action on the property;[5] a deputy sheriff personally

4. On contested evidence, the District Ethics Committee found that the market value of the building was $5,000.

5. The $3,000 purchase money mortgage was taken by the couple who sold the building to First Fort Lee in April 1973. By September or October of 1974, it was in default. The mortgages assigned this mortgage to one Peter Dykstra on December 27, 1974. In January 1975, Mr. Dykstra began foreclosure proceedings.

served respondent as registered agent for the Company. This deputy also so served respondent as agent for the widow, the second mortgagee, upon respondent's representation that he would accept service for her. Nevertheless, respondent failed to defend the action on her behalf and failed to notify her of his receipt of the summons and complaint. In June, July and August of 1976, complainant telephoned respondent to inquire why she had stopped receiving regular monthly payments on her second mortgage. He assured her that payments would resume shortly. They did not. He did not mention the foreclosure pro-

ceeding. In October 1976, complainant retained new counsel. Respondent spoke with him several times between November 1976 and January 1977, and similarly failed to advise him of the foreclosure proceedings. New counsel independently learned that a foreclosure proceeding had been instituted and a sheriff's sale held. He obtained a court order which vacated complainant's default and set aside the sheriff's sale. Subsequently, respondent helped arrange to have each of the four shareholders of First Fort Lee Mortgage Company agree to pay complainant $50 per month until the full

debt was satisfied.[6]

Respondent concealed from his client the recent purchase price of the property, its real value, and the fact that taxes were unpaid. It is clear that he had a duty to provide her with this information. Cf. In re Greenberg, 21 N.J. 213 (1956). Respondent knew that his client was naive and inexperienced in business matters, and that she was relying not only upon his advice

6. The repayment arrangement was made after complainant filed charges with the District Ethics Committee. It plays no part in our evaluation of respondent's conduct. Cf. In re Wilson, 81 N.J. 451 (1979).

but upon his judgment and upon the confidence she had in him based on his past 16 years of service as her late husband's attorney. That he suggested she seek independent advice is of little consequence under the circumstances of this case; he had every reason to believe that she would not do so. Given his client's obvious lack of understanding of the transaction and her failure to grasp the significance of respondent's interest in the company that was to benefit from her money, his suggestion that she seek independent legal and financial advice appears designed to protect him rather than his client. Re-

spondent cannot shield himself behind the glib recitation of a disclosure the practical meaning of which was unknown to his client.

[2] Lawyers have a duty to explain carefully, clearly and cogently why independent legal advice is required. When a lawyer has a personal economic stake in a business deal, he must see to it that his client understands that his objectivity and his ability to give his client his undivided loyalty may be affected.

"An attorney is bound to disclose

to his client every adverse retainer, and even every prior retainer, which may affect [his] discretion ... No man can be supposed to be indifferent to the knowledge of facts, which work directly on his interests, or bear on the freedom of his choice of counsel. When a client employs an attorney, he has a right to presume, if the latter be silent on the point, that he has no engagements, which interfere, in any degree, with his exclusive devotion to the cause confided to him; that he has no interest, which may betray his judgment, or endanger his fidelity." [Williams v. Reed, 3 Mason 405, 418 (C.C. Maine 1824)(Story, J.),

quoted in In re Kamp, 40 N.J. 588, 595 (1963)].

Given the widow's total dependence upon respondent, the one-sidedness of the transaction, the financial realities of a $10,000 investment in a building worth perhaps half that sum, any possible advantage in this deal was on the side of the owners of First Fort Lee Mortgage Company. Respondent was one of the owners as well as president and general counsel of the Company. It is clear that he exploited his client for his own financial benefit. It was unthink-

able in the first place for respondent to have suggested such an investment, but, having done so, it was unconscionable for him to have continued to represent the widow. He should have insisted that she retain independent counsel or refused to consummate the transaction.[7] Independent counsel would

7. The complexity of relationships between attorney and client when each has an interest in a business transaction can, in other cases, make the question of when the attorney should withdraw from representation difficult. For example, there is an obvious distinction between this transaction and one where the client is a sophisticated businessman able to rely on his own judgment and experience. See In re Palmieri, 76 N.J. 51 (1978); compare In re Hurd, 69 N.J. 316 (1976). However, there is no such difficulty there.

have made a proper title search, would have discussed the status of second mortgage vis-a-vis first mortgage,[8] would have uncovered the recent purchase price and delinquent tax status. Undoubtedly, independent counsel would never have allowed the widow to make this investment.

Respondent's conduct in this matter was in violation of DR 5-104(A) and

8. The record does not indicate whether this subject, surely material to the decision to make the loan, was ever mentioned to complainant, other than that she was told that one gets higher interest on a second mortgage than on a first mortgage.

DR 5-105(B), which restrict an attorney in entering or continuing a professional relationship that may be in conflict with his own or another client's interests. Nor did respondent's dual role in this sorry affair cease when the loan was closed. His continued concealment and misrepresentation breached his professional obligation to her in violation of DR 1-102(A)(4), (5) and (6). His corporation had obtained and then defaulted upon a purchase money mortgage. Respondent also concealed this situation from his client. When payments on the second mortgage ceased, respondent was able to give her an explanation, but he

simply refused. The original lie, feeding upon itself, grew until discovery was inevitable.

Had respondent been better able to juggle his financial manipulations and those of his corporation, the second mortgage might have been paid back with no economic loss to his client. This possibility does not alter the fact that during the period the loan was outstanding, respondent would have had, pursuant to a course of concealment and deception, a sum of his client's money at his disposition. This Court will no more tolerate the hoodwinking of helpless

clients out of funds in a business venture that is essentially for the benefit of the lawyer than it will outright misappropriation of trust funds. In re Wilson, 81 N.J. 451 (1979).

CONCLUSION

In both of these matters respondent's clients had every right to expect honesty and fair dealing. In both of these matters, respondent in effect attempted to appropriate his client's money to his own purposes. "No clearer wrong suffered by a client at the hands of one he had every reason to trust can be imagined." In re Wilson, supra,

81 N.J. at 456.

Respondents name will be stricken from the roll.

For disbarment - Chief Justice WILENTZ and Justices SULLIVAN, PASHMAN, CLIFFORD, SCHREIBER, HANDLER and POLLOCK - 7.

Opposed - None.

ORDER

It is ORDERED that LEON S. WOLK of Woodcliff Lake be disbarred and that his name be stricken from the roll of attorneys of this State, effective immediately; and it is further

ORDERED that LEON S. WOLK be and hereby is permanently restrained and enjoined from practicing law; and it is further

ORDERED that respondent comply with all the regulations of the Disciplinary Review Board governing suspended, disbarred or resigned attorneys.

Supreme Court of New Jersey
Disciplinary Review Board
Docket Nos. DRB 79-115 and
DRB-79-116

In the Matter of	:	
	:	Decision and Recommenda-
Leon S. Wolk,		
	:	tion of the Disciplinary
An Attorney-at-Law	:	
		Review Board

Argued July 18, 1979, decided September 19, 1979.

Mr. Donald R. Sorkow and Mr. Gary S. Stern argued the cause for the District Ethics Committee for Bergen County.

Respondent argued the cause pro se.

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey:...

CONCLUSION AND RECOMMENDATION

An examination of both the Hamburger and Walker matters reveals an attitude on the part of respondent of complete disregard for the duty owed by an attorney to both his clients and the bar. In both matters respondent's actions were inexcusable and reflect on the

commpetency and integrity of the entire bar. Furthermore, the Board pays little moment to respondent's contention, raised for the first time at the hearing before the board, that he was suffering from severe depression during the period under which the above matters arose and that his depression permeated his entire practice of law. In order that the public be protected from further serious transgressions on the part of the respondent, the Board recommends that he be disbarred.

The Board further recommends that respondent be required to reimburse the Administrative Office of the Courts for the actual cost of stenographic transcripts arising out of this disciplinary proceeding.

DISCIPLINARY REVIEW BOARD

By: /s/
Dickinson R. Debevoise
Chairman

DATED: OCTOBER 4, 1979 (pp 8-9)

SUPREME COURT OF NEW JERSEY
D-18 September Term 1979

In the Matter of :

LEON S. WOLK, : O R D E R

An Attorney at Law. :

It is OREDERED that LEON S. WOLK of Woodcliff Lake be disbarred and that his name be stricken from the roll of attorneys of this State,effective immediately;and it is further

ORDERED that LEON S. WOLK be and hereby is permanently restrained and enjoined from practicing law;and it is further

ORDERED that respondent comply with all the regulations of the Disciplinary Review Board governing suspended, disbarred or resigned attorneys.

WITNESS, the Honorable Robert N. Wilentz, Chief Justice, at Trenton, this 3rd day of April,1980.

/s/ STEPHEN W.TOWNSEND
Clerk

SUPREME COURT OF NEW JERSEY
D-86 September Term 1983

IN THE MATTER OF :
LEON S. WOLK, : O R D E R
An Attorney at Law. :

This matter having been duly presented to the Court, it is ORDERED that the application for reinstatement to the practice of law is denied.

WITNESS, the Honorable Robert N. Wilentz, Chief Justice, at Trenton, this 8th day of May, 1984.

s/s
Stephen W. Townsend, Clerk

Leon S. Wolk
31 Wildwood Road
Woodcliff Lake, New Jersey 07675

Office of the Clerk
United States District Court
For the District of Columbia
U.S. Courthouse
Washington, D.C. 20001

May 27, 1980

Re: In the Matter of
LEON SAMUEL WOLK etc.
Attorney Grievance Docket No. 80-2

Dear Sir,

I respectfully request the above matter be continued for a period of thirty days. I consent to the suspension until the further Order of the Court. I am presently not practicing law. I am presently under medical psychiactric treatment, unable to represent myself, and am attempting to obtain counsel. In the proceedings before the New Jersey Supreme Court and its Disciplinary Review Board, I appeared pro se, while suffering from depression, for which I am presently being treated.

Your consideration of my request for a continuance, will afford me an opportunity to have my case fully and fairly reviewed by this

Court. Again I wish to assure you, that in the interim, I will not practice law, in any jurisdiction, and if reinstated, will not again practice law, until so certified by competent medical psychiatric opinion.

Respectfully submitted,

Leon S. Wolk

c.c. Clerk Supreme Court Of The United States

(D-187)

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

(Filed FEB 13, 1981,

James F. Davey, Clerk)

In the Matter of)

)

LEON S. WOLK, Respondent)Attorney Grievance
A Member of the Bar of the)Docket No. 80-2
United States District Court)
for the District of Columbia)

ORDER CONTINUING
ORDER TO SHOW CAUSE

Upon consideration of the response filed February 2, 1981 by counsel for the Respondent to this Court's Show Cause Order filed December 29, 1980, requesting that the return date of the Order to Show Cause be carried for an indefinite period of time and that no action be taken thereon for reasons set forth in the response,

It is this 13th day of February, 1981,

ORDERED, that the Order to Show Cause filed herein on December 29, 1980, be and the same is hereby continued until further Order of this

Court, following the disposition of the petitions being filed in the New Jersey Supreme Court and the United States District Court in New Jersey for reconsideration of the disbarment of Respondent, LEON S. WOLK.

/s/
Judge Louis F. Oberdorfer

/s/
Judge Harold H. Greene

/s/
Judge John Garrett Penn

SUPREME COURT OF THE UNITED STATES

No. D-187

In the Matter of the Disbarment of

Leon S. Wolk

It having been reported to the Court that Leon S. Wolk, of Woodcliff Lake, New Jersey, has been disbarred from the practice of law by the Supreme Court of New Jersey and this Court by order of April 28, 1980, having suspended the said Leon S. Wolk from the practice of law in this Court and that a rule issue requiring him to show cause why he should not be disbarred;

And it appearing that the said rule was duly issued;

It is ordered that the said Leon S. Wolk be disbarred from the practice of law in this Court and that his name be stricken from the roll of attorneys admitted to practice before the Bar of this Court.

December 1, 1980

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
DRB-79-115 and 79-116

IN THE MATTER OF:	:	TRANSCRIPT OF RECORDED PROCEEDINGS
LEON S. WOLK, An Attorney-At-Law	:	

Supreme Court Conference Room
520 Broad Street
Newark, New Jersey
July 18, 1979

B E F O R E:

DICKINSON R. DEBEVOISE, Chairman
Disciplinary Review Board

A P P E A R A N C E S:

DONALD R. SORKOW, ESQUIRE
District Ethics Committee

GARY S. STEIN, ESQUIRE
District 2 Ethics Committee

LEON S. WOLK, PRO SE

MR. DEBEVOISE: ...Well,this matter,Mr.Wolk,has been going on some time,and it's been a concern to us on this Board because of the extreme delay with which it has been handled for whatever the reasons are.We don't have to go into that at this point.

It seems appropriate at this time to proceed.... (p11) ...

JUDGE LEONARD : I would move that the application for an adjournment be denied conditioned upon the fact that if Mr. Wolk desires to hire counsel who in turn desires the file a written memo with us that it be done within two weeks from the date,otherwise it will not accepted. ...(p12)...

MR. DEBEVOISE : Mr. Wolk, I guess you understand the purport of the motion.

MR. WOLK : No,I really don't.If I could have a brief clarification?

MR. DEBEVOISE : Let me explain it.

We are denying your application for an adjournment.We are giving you two weeks to submit to theBoard either yourself or by an attorney any written material directed to the issue which we will be discussing.... (p13) ...

...MR. WOLK: ...The affidavit was prepared under a considerable amount of stress and at a time when the respondent was beginning to experience a deepening condition of depression...(p19) From and after that time, the respondent, to the time the affidavit was submitted experienced a worsening condition of depression which continues even to the present time....(p20)

MR. DEBEVOISE: We had trouble with the figures, and depression or no depression...(p21)

MR. DEBEVOISE: What does that have to do with this problem?

MR. WOLK: This is merely a mitigating circumstance in explaining this depression that was setting in and becoming worsening and deepening. The affidavit should never have been submitted. The affidavit should have been read and destroyed. Reliance should have been made on the retainer agreement. In retrospect, an attorney who represents himself has a fool for a client; I had a fool for a client myself even back in those days because certain things should have

been done that weren't done incuding the possible --..: (pp24-25)

JUDGE LEONARD: Well, let me ask you this question then. You've referred to on more than one occasion a depression that you were suffering from. MR. WOLK: That's correct, Judge.

JUDGE LEONARD: My first question is, are you or were you under any medical or other scientific treatment for that depression?

MR. WOLK: No, I have not been. I have not been.

JUDGE LEONARD: Now, secondly, did you raise that defense or reason, if it be a reason, for your conduct before the District Ethic Board in its hearing. I may say, as an aid to you, in reading your answer to the complaint, you do not raise it. Now, my mind is not fresh whether in the hearing down below you did.

MR. WOLK: I don't believe it was raised. I may be wrong, but it does exist as a fact.

JUDGE LEONARD: No, no, no, no. Just answer my question, please. I think you'll do much

better if you shoot square with this committee and just answer what you know honestly, and what you don't know, tell us.

MR. WOLK: I don't believe it was raised, Judge.

JUDGE LEONARD: All right. MR. WOLK: I don't believe it was raised.

JUDGE LEONARD: So it is a fact that the first time this depression, if it be a defense or reason, is raised is at this hearing before the Board now; is that true?

MR. WOLK: It is a fact, Judge Leonard, that I was represented by counsel, it is a fact that I had an opportunity to review the matter fully with my then counsel, and it is a fact that these matters were discussed with counsel. I did not prepare the Answer myself, although I did review the Answer. I did not file any supplemental briefs. I don't even know if any supplemental briefs were made. What I'm indicating to you is this, this is a fact. If it was not in the record below and it doesn't appear before the Board of de novo on the record, it doesn't

appear. But it is a fact, and I'm indicating it to you.

JUDGE LEONARD: And you had no medical treatment for it? MR. WOLK: No formal medical treatment.

JUDGE LEONARD: Does that depression extend to all of your practice of law or did it only extend to this one case?

MR. WOLK: As a matter of fact, your Honor, it permeated the respondent as a person and affected his entire practice of law.

JUDGE LEONARD: Is it still present?

MR. WOLK: It's present right now in this room.

JUDGE LEONARD: I mean is it still present in your entire practice?

MR. WOLK: Yes.

JUDGE LEONARD: Did you say yes? Do you think you're fit to practice law? Or do you think a voluntary vacation on your part for a little while or some treatment might help you?

MR. WOLK: Your Honor, I would like to confer with counsel before answering the question, but

it is a question that has crossed my mind repeatedly ever since very shortly after the Judge Stern incident.

JUDGE LEONARD: I certainly won't insist on an answer.

MR. WOLK: I'm indicating to your Honor and to the Board in its entirety that it did affect me, and persons who knew of me, professional associates in court before and subsequent to this incident, would repeatedly comment, you know, "What's wrong? What's happening?" And, you know, it's one of those things.

JUDGE LEONARD: You may have your counsel cover that in his memo that he's going to submit.

MR. WOLK: I do want to indicate this very clearly, this is not intended in any way of a criticism of my then counsel. JUDGE LEONARD: No, I understand. But did you hear what I just said?

MR. WOLK: Yes, I just heard what you said, your Honor. He's well aware of that phenomenon.

JUDGE LEONARD: Let me just ask you another

question. Are you willing to submit to an examination by some medical person appointed by this Board? Now, you don't have to answer that now.

MR. WOLK: I would ask my counsel.

JUDGE LEONARD: All right. Have him answer that in his letter also.

MR. DEBEVOISE: Yes, this Board has authority to direct that kind of examination, if we think it's necessary.

All right, is there anything else on this particular --.(pp33-37)

JUDGE LEONARD: I'd like to just ask one question if he's finally through.

MR. WOLK: yes, I'm done. Thank you.

JUDGE LEONARD: I note that the period of time in this case overlaps some of the time in the prior case. Were you suffering from a depression while you were handling this latter case, the mortgage loan?

MR. WOLK: Judge Leonard --

JUDGE LEONARD: You didn't discuss it in dealing with it before us, but was that inadvertence or do you want to isolate the two?

MR. WOLK: I believe there is an overlapping. I am not qualified to render professional opinion along those lines, just in retrospect.

JUDGE LEONARD: Well, you were very definite in the prior case.

MR. WOLK: Well --

JUDGE LEONARD: I mean you rendered that opinion very --

MR. WOLK: I guess I remember the effect it had on me and it still has in thinking back on the matter and what happened subsequent to that incident. Regarding myself --

JUDGE LEONARD: Was it present in this case? Was it responsible for your conduct in this case? Just your humble opinion.

MR. WOLK: In my opinion, humble opinion, my inexpert opinion which is highly subjective, I would have to say yes in whole or in part.

Your Honor, I can't say at this point it was, at this point it wasn't. I do know this that I have spent less and less time over a period of years and it's traceable back to an incident which I believe triggered the situation. I

have engaged from time to time in matters over the years -- (pp59-61)

Leon S. Wolk
31 Wildwood Road
Woodcliff Lake, NJ
391-9877

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD

In the Matter of	:	Docket Nos. DRB-79-115 DRB-79-116
LEON S. WOLK	:	
An Attorney-at-Law	:	Respondent's Brief

...

3) Respondent had been deprived of an anticipated substantial legal fee based upon contingent retainer contract with client whereby, he received, on a settlement of $1,600,000.00 from Judge Stern, a legal fee award of less than 4% complete destruction of attorney client relationship with infant client and his parents, a form of psychological and financial trauma... (p1)

4) Pendency of within ethics complaint for extended period of time from October 2, 1975 to the present itself a form of punishment due to its "psychological impact upon respondent"... (p1)

5) Respondent has experienced a deepening depression (which was not heretofore disclosed

in the record and may not have been effectively communicated to his former attorney by reason of said condition)... his condition has ... to the present time since the appointment by Judge Stern of a guardian ... to substitute for infant's father who respondent was named in the complaint filed. This deepening depression relates back to about... 1974..." (p3)

...While respondent believes he advised his attorney of these facts, his ability to communicate by reason of deepening depression probably impaired that relationship...(p5) Respondent's condition of deepening depression was a source of great sorrow experienced by his elderly parents, with whom he had a close relationship and in their declining sickly years shared his depression. Respondent's depression has been communicated to his family, wife, and two children and they have suffered from his largely self inflicted punishment which he has to date been unable or unwilling to arrest. Marital separation or divorce, as a result is being actively considered by his wife as a result of his de-

pression.(p6)

Wolk began to experience depression at the time of his late partner's sudden demise in July 1972.(p10)

Thereafter the Respondent became even more depressed when Wolk was reduced by the Court and its appointed guardian ad liten from trial counsel to mute appearance at counsel table in the presence of the jury, clients, witnesses and other attorneys, defendents and executives of the insurance company. This created in the mind of respondent, that the Court considered him incompetent to function as the trial counsel in a case that he had thoroughly investigated and prepared and he believes contributed to the destruction of the attorney client relationship. This has resulted in a deepening depression that is both emotional and financial in origin...(p11)

SUPREME COURT OF NEW JERSEY
D-18 September Term 1979

In the Matter of

LEON S. WOLK,

An Attorney at Law

RESPONDENT'S BRIEF IN OPPOSITION TO THE DECISION and RECOMMENDATION OF THE DISCIPLINARY REVIEW BOARD AND APPENDIX OF DOCUMENTARY EVIDENCE NOT RAISED BELOW

Leon S. Wolk
Respondent pro se

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Where an affidavit expressly states it is based upon recollection and not upon time and that reliance for counsel fees is to be based on contingent retainer agreement is filed at the court's insistence but is timely retracted and recanted under oath, before reliance thereon and prior to the termination of the hearing and award of counsel fees, and is explained as a mistake prepared under severe depression, this evidence is admiss-

able as tending to disprove intent, knowledge and motive and the record below is not clear and convincing in support of intentional and willful misconduct 20

LEON S. WOLK
Respondent, pro se
260 Nagle Street
Bound Brook, NJ 08805
(201) 469-0042

SUPREME COURT OF NEW JERSEY

In the Matter of	:	CIVIL ACTION
	:	
LEON S. WOLK,	:	No. D-18 September Term 1979 82 N.J. 326 (1980)
Respondent	:	
		MOTION TO SET ASIDE ORDER OF DISBARMENT AND FOR RE-INSTATEMENT OF RESPONDENT AS AN ATTORNEY AT LAW

To the Honorable Chief Justice and the Associate Justices of the Supreme Court of New Jersey:

The respondent, LEON S. WOLK, appearing pro se, moves to set aside the order of disbarment as an Attorney At Law entered on April 3, 1980 and for reinstatement.

The respondent, LEON S. WOLK, so moves for the reason that he was allowed to appear pro se before the Supreme Court of New Jersey, its Ethics Committee and Disciplinary Review Board at a time when respondent during argument and in his briefs contended that during the entire period when the acts of misconduct occurred and

continuing to a time beyond pro se argument on December 11, 1979, that the respondent was "suffering from severe depression", which contention the Board gave "little moment to", and which contention the Court, p. 330 concluded was "grasping, self-serving and of no relevance", which conclusions were without benefit of expert opinion based upon ordered mental and/or physical examination of respondent pursuant to R.1:20-4(g),R.1:20-11,R.1:20-3(f),R.1::20-2(f). Respondent's contention that he "was suffering from severe depression" was not in the record below corroborated by expert medical psychiatric opinion but was raised in the record below by demeanor evidence of respondent's conduct and contention, and corroborated by the conclusion of treating medical psychiatrist, Eugene B. Papowitz, M.D. that respondent,

> "... was suffering from a severe and incapacitating psychiatric illness during the events which led to his disbarment. ... (and that) ... he was incompetent mentally to practice law or to conduct his own defense ... (and the) ... offenses he committed and for which he was disbarred were the result of mental illness ... ".

(complete report annexed hereto, parenthetical inserts supplied) (Ra-5)

Respondent's contention of mental incompetence both at the time of the occurrence of the acts of misconduct and at the time of the hearings before the Board and the Court are further corroborated by the forensic medical psychiatric report of Edward H. Lowell, M.D. annexed hereto which conclusion in part states,

> "... (that respondent) at this time is suffering from a substantial mental disturbance of a complex nature ... that conclusion is unqualifiedly corroborated by the psychometric examinations performed which reveal paranoid schizophrenic features, with severe depressive overtone, a labile stability with potential decompensation, interference with mental processes and severe inroads in the area of judgement. (and that) this illness existed prior to, during, after and since the time of his condemned behavior, and most <u>certainly</u> during the time of the charges against him and his defense of those charges. ..." (parenthetical inserts supplied)(Ra8-9).

The forensic psychiatric report is dated August 25, 1982 and is based upon psychiatric examination of respondent on May 14, 1980,

January 12, 1981 and January 16, 1981. The treating psychiatric report is dated November 3, 1983 and is based upon intensive psychotherapy medical treatment for over two years beginning on June 26, 1981 and continuing to the present time and Eugene B. Papowitz, M.D., concludes that respondent "... is now mentally competent and able to practice law."

By reason thereof the New Jersey Supreme Court, its Ethics Committees and its Disciplinary Review Board failed to follow applicable Rules Governing The Courts Of The State of New Jersey which constituted a denial of the constitutional right to competent counsel and procedural and substantive due process under the laws of the United States of America and the State of New Jersey.

Respondent further moves by reason of all of the aforesaid as follows;

(1) that respondentwas not competent to waive his constitutional right to independent competent counsel and nevertheless was allowed to appear pro se,

(2) that respondent did not have competent counsel when he appeared pro se, and,

(3) that respondent's incompetence at all times herein relevant precludes the Court's conclusion that the acts of misconduct were intentional, he"... attempted to commit a fraud on a federal district court and his clients ... The attempted fraud - a gross intentional exaggeration of services rendered - was outrageous. The deceit and exploitation ... was inexcusable..." (In re Wolk, 82 N.J.326,327(1980)), (emphasis supplied) and that

(4) respondent's mental incompetence was a matter of mitigation not previously considered by the Court, although relevant on the issue of appropriate discipline to be imposed in 1980 and the issue of reinstatement in 1984.

There is annexed to this motion a supporting brief and the reports of treating psychiatrist, Eugene B. Papowitz, M.D. and forensic psychiatrist, Edward H. Lowell, M.D., to be relied in support thereof stating the object of the motion and the facts on which it is based, together

with relevant argument.

A copy of the within motion and brief has this date been simultaneously filed with the Clerk Committee on Grievances, United States Court House, Third Street and Constitution Ave. N. W. Washington, D.C. 20001 where pursuant to Attorney Grievance Docket No. 80-2, the United States District Court For The District of Columbia In The Matter of LEON S. WOLK, Respondent A Member of the Bar of the United States District Court for the District of Columbia has granted a continuance of an Order To Show Cause dated December 19, 1980 why respondent should not be disbarred reciprocally in the District of Columbia, wherein he was admitted as an attorney at law after passing its bar examination in 1953, pursuant to Rule 4-3(II) (d). In the event the within motion is denied respondent has requested an independent hearing and ajudication in the District of Columbia.

Dated : April 27, 1984 /s/_____

LEON S. WOLK,

Respondent pro se

(pp1-4)

LEON S. WOLK
Respondent, pro se
260 Nagle Street
Bound Brook, N. J. 08805
(201) 469-0042

SUPREME COURT OF NEW JERSEY

CIVIL ACTION

In the Matter of	:	
	:	No. D-18 September Term
LEON S. WOLK,	:	1979
	:	82 N.J. 326 (1980)
Respondent	:	

****

BRIEF IN SUPPORT OF MOTION TO SET ASIDE ORDER OF DISBARMENT AND FOR REINSTATEMENT OF RESPONDENT AS AN ATTORNEY AT LAW

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LEON S. WOLK
Respondent, pro se
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SUPREME COURT OF NEW JERSEY

In the Matter of	:	CIVIL ACTION
	:	
LEON S. WOLK,	:	No. D-18 September Term 1979
Respondent	:	82 N.J. 326 (1980)

****

APPENDIX TO BRIEF IN SUPPORT OF MOTION TO SET ASIDE ORDER OF DISBARMENT AND FOR REINSTATEMENT AS AN ATTORNEY AT LAW

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EUGENE B. PAPOWITZ, M.D., P.A.
306 Ramapo Valley Road
Oakland, N.J. 07436
(201)337-3994

November 3, 1983

Leon Wolk
260 Nagle Street
Bound Brook, N.J. 08805

Dear Mr. Wolk,

Please find enclosed my psychiatric evaluation of you and the report of Edward H. Lowell, M.D. I spoke with Doctor Lowell on the phone and he had no objection to your reading his report if in my judgement it was appropriate.

Sincerely,

EBP/mg
Enclosures

s/s Eugene B. Papowitz, M.D.

Psychiatric Evaluation of Leon Wolk

This report will contain a review of the findings of Edward H. Lowell, M.D., my initial impressions of Mr. Wolk, which will bear on his psychiatric condition at the time as well the period of the events which led to his disbarment, a summary of my work with him, and an assessment of his present psychiatric condition.

Dr. Lowell examined Mr. Wolk on two occasions, observed him at a conference, had numerous contacts with peiple who knew him, and many phone contacts. He had psychological testing done and conducted an extensive review of documents and transcripts. I believe Dr. Lowell's work to be extremely thorough and his conclusions are well supported by evidence. In his report of Aug. 25, 1982 Dr. Lowell stated that at the time Mr. Wolk was suffering from a substantial mental illness. This conclusion was supported by psychometric tests which revealed "paranoid schizophrenic features, with severe depressive overtones, a labile stability with potential decompensation, interference with men-

tal processes and severe inroads in the area of judgement." Dr. Lowell further concluded that Mr. Wolk's illness existed "prior to, during, after and since the time of his condemned behavior, and most certainly during the time of the charges against him and his defense of those charges."

Dr. Lowell gives abundant evidence that Mr. Wolk was suffering from such serious mental abnormality that he was not aware of the nature or severity of the charges brought against him or the absurdity of his own defense, that rather than being venal or deceitful, he was incompetent mentally in spite of his innate intelligence. It is his contention that because of Mr. Wolk's intelligence and personality the court did not become aware of his illness, and since Mr. Wolk himself was unaware of it and thus could not raise this issue till the very end, the court did not consider the question of mental illness, that had the question of mental illness been considered it would have acted dif ferently and judged Mr. Wolk differently. Nu-

merous references are made to Judge Stern's anger and the frustration of those trying to deal with Mr. Wolk, their having taken Mr. Wolk's documents, statements, and behavior as those of a man in command of his mental faculties rather than the productions of a deranged mind. For instance, the billing for a 33 3/4 hour day was taken as a serious attempt to deceive the court rather than the flagrant evidence of mental incompetence that it was.

I first examined Mr. Wolk on June 26, 1981 and have been treating him twice weekly since then for a total number of 213 sessions to date. I also interviewed his wife on two occasions. At the time of the initial interview Mr. Wolk was an obese 52 yr. old man dressed in a somewhat dishevelled manner and appearing unclean. He seemed to be unconcerned about his appearance. He spoke freely and was quite open. While he was coherent and logical in his speech and thinking, he tended to wander off the point. He was, however, able to bring himself back to the main thread of his story. For instance, he

began by talking about his disbarment, then went on to his depression and inability to cope, then to attempts at finding employment, back to his disbarment, then to his treatment with another psychiatrist and his employment as a management consultant and back to his disbarment. There was no formal thinking disorder but there was a certain looseness in his associations. There were no delusions, hallucinations, or other evidence of psychosis. The later paranoid flavor to his thoughts about his disbarment were interestingly absent at first. In fact he accepted his own responsibility for having antagonized a federal judge. Mr. Wolk related well. Affect was appropriate. While he described a serious depression, he demonstrated little depression or anxiety during the interview. He was oriented to time, place and person and there were no disturbances of the sensorium. The family history is significant in that Mr. Wolk's father suffered from a manic-depressive illness. It will become apparent from other parts of my report

that Mr. Wolk was far more seriously disturbed that was apparent on an initial contact.

He dates the onset of his emotional problems to the death of his partner in 1972, though in actuality it is difficult to give a specific date to the onset of his illness. Mr. Wolk always regarded the law with a kind of excessive idealism and disdain for the pecuniary aspects and everyday practical details of a law practice that made him peculiarly vulnerable to the kind of difficulties that ensued from 1972 onward. For him the law was a noble calling and he could throw himself with zeal and industry into researching and trying a case, particularly when he could feel he was serving a good cause. It hardly occurred to him that he ought also to make a living out of his practice and in fact he never was successful economically. This not only led to serious emotional consequences for himself but it contributed to a deterioration in his marriage which left him without any emotional support after the death of his father. On his honeymoon his wife told him that she didn't

love him and married him because she saw a secure life being married to a lawyer. As his professional life fell apart, she became extraordinarily sadistic and rejecting toward him and contributed to his social isolation and emotional deterioration.

After his partner died, Mr. Wolk discovered that he had misused clients funds. He was able to rectify the situation but at considerable cost. In another instance he was involved in a public stock offering that proved to be fraudulant. He was exonerated of any wrong doing in that case. Later he advised a client to invest in a second mortgage on a property in which he was a partner without realizing that it was an unsound investment or that there was an ethical conflict. He made sure the money was restored. By this time Mr. Wolk was functioning poorly. By the time of the Walker case and the following events leading to his disbarment, he was hardly functioning at all. That he could submit a bill for a 33 1/2 hour day was only the grossest evidence of mental incompetence. It is of import-

ance that a single flaw runs through all of these instances. What appears on superficial appearance to be fraud is actually mental incompetence and the flaw is in the practical aspects of practice management. At first there was a disdain for keeping records, knowing his own financial state, being concerned about money. This disdain produced a reluctance and then an inability to keep accurate records, account for his time, evaluate the soundness of his investments and so forth. That a man of his intelligence cannot do simple arithmetical problems is accounted for by his aversion to precise reality.

Over the years since 1972 Mr. Wolk's practice deteriorated. He withdrew from contact with clients, would not return phone calls, moved to smaller and smaller offices and finally to a room in his home. By the time I saw him he was a recluse living in a basement room filled with boxes of records and books for which he had no use. He described himself as the curator of his own museum which no one visited. It is clear

that there was an ever intensifying depression which affected all aspects of his life and made it impossible for him to function with any competence professionally by the time of the Walker case and the disbarment proceedings. A vigorous and intelligent man had become an obese dishevelled person with deep depression, severe inertia, distorted judgment and poor insight. He felt such disgrace and humiliation that he could not face family, friends, clients or colleagues and he defended what was left of his self-esteem with a veneer of rationality and a belligerence and paranoia that further antagonized anyone with whom he had contact, including those who may have been in a position to help him.

After several sessions of treatment it became clear that Mr. Wolk was quite lacking in insight into his own condition. He believed that Judge Stern was engaged in a vendetta against him probably because he thought Mr. Wolk actually was guilty in the public stock offering and that the judge used his influence with the Supreme Court of New Jersey and the Disciplinary Review Board

to secure his disbarment. He was constantly preoccupied with Judge Stern and the revenge he would take against him. For instance, he would write a letter to the newspaper on a new law through which a judge could be removed from office and Judge Stern would get the message. Though Judge Stern's behavior, displays of anger and attempts at entrapment as described by Dr. Lowell and Perceived by Mr. Wolk would give some credence to his beliefs, they were more pervasive than could be supported by evidence. Also the types of action he took and contemplated taking demonstrated a severe impairment of judgement. He could not see that such actions would be ineffective, provocative, and self-destructive.

Distrubed behavior resulting from impaired judgement showed itself in other ways. When his wife kicked him out of the house, he moved to an apartment he could not afford, and he moved in with his sister only when funds were completely exhausted. He lost several jobs after giving helpful suggestions, not realizing that he came

across as telling his employers how to run these businesses. He so messed up forms for the insurance on which his treatment depended that it took his wife several months to straighten them out. His need to help friends cost him money he didn't have and possibly a business opportunity. Another problem was an overwhelming inertia. He could do little more than get himself to work and back. Both vital concerns and routine chores that required any effort or initiative were neglected. Of course, realistic problems compounded the emotional ones. How does a 52 year old disbarred attorney start a new career?

Before I started treating Mr. Wolk, he was treated by a psychiatrist with anti-depressant medication which created a state of euphoria that frightened him. In my experience only people with severe and incapacitating depressions respond dramatically to anti-depressant medication. The state of euphoria may have been the beginning of a manic episode, which not infrequently is precipitated by such medication. My treatment with Mr. Wolk has been psychother-

apy, at times supportive and at times psychoanalytic. He has done extremely well. Though his external circumstances have not much altered, he has shown substantial improvement in many areas. His depression has lifted and along with it much of his inertia. He is still bitter about his disbarment, which he feels was a more severe punishment than was ever meted out in New Jersey for a similar offense, but there is no longer the paranoid ruminations about it that there were in the past. Insight and judgement have improved considerably. He is socially active and he is working, albeit at a job that does not pay enough to live on. Realistically, job opportunities are limited for a 53 year old disbarred attorney. He is teaching as an adjunct professor of economics and he has obtained a real estate license, so there are realistic goals he is pursuing. In spite of the great anxiety that the move elicits, he has decided to seek restoration of his license to practice law.

In summary my findings coincide with those of Dr. Lowell. Mr. Wolk was suffering from a severe and incapacitating psychiatric illness during the events which led to his disbarment. He was incompetent mentally to practice law or to conduct his own defense. The offenses he committed and for which he was disbarred were the result of mental illness. They were not consciously perpetrated, and in fact he was largely unaware of what he was doing. There was severe depression, inertia, impairment of judgement, lack of insight, and paranoid thinking. Mr. Wolk has been in intensive psychotherapy with me for over two years and he has substantially recovered from his illness. There are still neurotic problems on which we are working, but he is now mentally competent and able to practice law.

s/s Eugene B. Papowitz, M.D.

EUGENE B. PAPOWITZ, M.D., P.A.
306 Ramapo Valley Road
Oakland, N.J. 07436
(201)337-3994

CURRICULUM VITAE

1965-to Present	Private practice of Psychiatry and Psychoanalysis
1969-to-Present	Faculty-American Institute for Psychoanalysis
1970-1978	Chief - Outpatient Psychiatric Service: St. Joseph's Hospital, Paterson, NJ
1971	Board Certified in Psychiatry
1975-to-Present	Faculty Council - American Institute for Psychoanalysis
1975-to-Present	Training and Supervising Analyst - American Institue for Psychoanalysis
1963-1965	Psychiatrist - U.S. Army
1-1961 - 5-1969	Candidate - in - Training - American Institute for Psychoanalysis

CURRICULUM VITAE Cont'd.

RESIDENCY IN PSYCHIATRY

10-1959 - 6-1960	Brooklyn State Hospital
8-1960 - 1-1963	Manhattan State Hospital
7-1958 - 6-1959	Internship - Brookdale Hospital
9-1950 - 6-1954	Undergraduated Education - NYU

IT IS MY RECOMMENDATION THAT THIS REPORT NOT BE SHOWN TO THE PATIENT HIMSELF AT THIS TIME.

EDWARD H. LOWELL M.D. P.A.
372 Harding Drive, South Orange, NJ 07079
(201) 763-7769

August 25, 1982

Mandelbaum, Salsburg, Gold & Lazris
141 South Harrison Street
East Orange, New Jersey 07018

Attention: Yale Lazris, Esq. Re: LEON WOLK

Dear Sirs:

I have examined psychiatrically at my office on May 14, 1980, and again on January 12, 1981 for extended periods of time Mr. Leon Wolk. I also observed him during a conference on January 16, 1981 for over an hour's time.

Additionally I have very carefully perused <u>from a psychiatric aspect</u> almost a plethora of documents, transcripts, letters, briefs, pleadings, notes, affidavits, etc. The purpose of my examination of Mr. Wolk and of my reading that extraordinarily voluminous written material was twofold. Firstly to render a psychiatric opinion on Mr. Wolk's present mental status and potential need for psychiatric treatment, or the

desirability of such. Secondly, to render an opinion regarding the degree of medical probability that in some way psychiatric factors were significant in a causative or contributory or exacerbatory way in Mr. Wolk's behavior at the time he did the acts which led to his disbarment, and/or whether any such mental factor was present in some way that might present a basis for mitigational considerations.

You should know that that material included verbatim transcripts of Mr. Wolk's utterances through much of the matter, his submitted papers, his utterances to the Hon. Herbert Stern, Judge Stern's words to him, Mr. Wolk's responses, his cross-examination, his uttterance before the ethics committees and later before the Supreme Court of New Jersey Disciplinary Review Board, etc.

I have, to date, interviewed several people involved with Mr. Wolk at that time, one of whom was intricately involved in the tort case from which the charges against Mr. Wolk derived.

I have referred Mr. Wolk to Dr. Edward Mann,

a quite competent clinical psychologist on the fa ultyu of the College of Medicine and Dentistry of New Jersey, for extensive psychological testing, including much projective material which would preclude any ability of Mr. Wolk whatever to manipulate or distort. Dr.f Mann's report is affixed to this report.

Atypically, I shall present my conclusions first. Then below my discussion with supporting data. Lastly some page and line reference to various transcripts of the matter.

My carefully considered psychiatric opinions, which I can report with a high degree certainty, are: First and foremost, Mr. Wolk at this time is suffering from a substantial mental disturbance of a complex nature. This is blatantly apparent clinically, to the point of almost being inconntrovertible. It is difficult for me to picture another psychiatrist cavilling with this conclusion in any substantial way no matter how adversarial the issue.

That that conclusion is unqualifiedly corroborated by the psychometric examinations per-

formed which reveal paranoid schizophrenic features, with severe depressive overtones, a labile stability with potential decompensation, interference with mental processes and severe inroads in the area of judgement. Mr. Wolk is seen as struggling with a major psychopathological problem with overwhelming intensive anxiety, uncertainties, agitation, and hostility; he is in a state of inner turbulence and alienation. There is considerable depressive material and poor impulse control. Censoring and integrative functions of the ego are deteriorating. Control is tenuous at best. It is suggested that Mr. Wolk evidences problems in concentration, confused thinking, forgetfulness, and an inefficiency in carrying out responsibilities. There is a "good front" which hides blocking and difficulty in reality testing. There is deteriorating thinking, to a great extent contaminated by inroads of primary process, and primitive unconscious and archaic ideational content. There is perceptual distortion, with peculiar inferences and with vague extensive generaliza-

tions.

That, based upon the degree of illness of this time and upon the natural history and anatomy of his disorder, and upon the materials revealing his speech patterns, thought processes, and testimony about his behavior at an earlier time, that with a high order of medical probability, one could scientifically validly retrograde-extrapolate his illness and consider that surely this illness existed prior to, during, after, and since the time of his condemned behavior, and most certainly during the time of the charges against him and his defense of those charges, first when represented by different attorneys, and most pertinently during his absurd insistence upon appearing pro se before the Supreme Court, unprepared, and discombobulated.

That his realization within himself of mental disturbance and the absurdity of his defending himself, and how he did so, although coming late, was not hollow, nor a ruse, nor a cunning maneuver usefully raised at the eleventh hour. That his mental disturbance was critical and

determinative in his failure to realize his own illness earlier (a common enough phenomenon), in his unpreparedness before the Supreme Court, in his neglect of the matter each step of the way until the last moment, including most recently, his last minute haste to respond at long overdue last, to Washington, D.C.'s matter against him.

That even at this time his illness makes difficult assisting him, psychiatrically, and I can assure you probably legally when you begin to attempt to work with him. This is not willful, but is symptomatic!

At this juncture, after very carefully pondered psychiagric consideration, I can report that I cannot in honor proffer a conclusion that his illness could be raised tenably as an exculpatory defense. I can however report that the illness is substantial, and its presence then- very highly probable. Its effects not only contributed to his actions, but shaped their configurations, and then not only interfered with the defense, and his defense, but even led to disturbed judgment and behavior such as would

engender uncompassion, if not hostility, because of his intransigent (but sick) seemingly uncontrite attitude and contentions in court, before the ethics committees' bodies, and before the Supreme Court's Disciplinary Board.

I feel that even as exculpatory issue is probably not tenable that there <u>is</u> an enormous, justified, very supportable basis for alerting the Supreme Court to an issue which it missed: Mr. Wolk's mental illness which was not raised <u>because</u> of the illness. It was a question never really raised, inadequately suggested too late ... and left completely unanswered.

I would report that the loss of his license constituted an unsustainable blow to Mr. Wolk's brittle ego structure and psychic integrity. The shame, disgrace, humiliation, and dishonor almost deny him an opportunity for rehabilitation. The trauma of the loss of his District of Columbia lincense, I feel, would have precipitated an enormous suicidal potentiality. It will be therapeutically helpful that the Washington Bar deferred the issues.

I think that there is a definite psychiatric basis for an appeal to the New Jersey Supreme Court to reconsider its punishment on a humanistic basis. Were the Court to be convinced that such illness did exist at that time, which fact it never got to consider with professional expert support, no doubt it would have some basis to see it mitigationally in its disposition of the matter. Were Mr. Wolk never to practice law again, the mere recanting of the criminal basis for his behavior as being so willful and venal would remove an almost insurmountable barrier to his rehabilitation. Hopefully they might remove the disbarment and issue an <u>indefinite</u> suspension, equally protecting the public from Mr. Wolk's illness, as disbarment had protected it from his <u>seemingly</u> venal criminal intent.

At this time I cannot offer a prognosis. Mr. Wolk's future pivots on the hope that the court will consider the issue from a vantage point of which the court was deprived before. I can say that prognosis for therapeutic success in the face of loss of this last hope for a vestige of

Mr. Wolk's life and health will be out of all reasonable proportion to the benefit of the public safety. He is not practicing; he will agree not to. Even indefinite suspension for reasons of mental illness would be less devastatingly destructive.

MENTAL STATUS

Mr. Wolk appeared promptly for his examinations. He was somewhat disheveled, not completely neglectful of personal hygiene, but yet not <u>really</u> neat; he was obese, ungainly, with abdomen bulging over his belt; the suit and shirt not uncared for, yet not pressed. In short, the appearance was not clearly a bad one; clearly also he was not <u>really</u> all right in some hard-to-define way. (This quality of being "off" yet complexly compensated-for but not to a point of being completely "on," was to qualitatively parallel most of one's dealings with Mr. Wolk. His speech, thought train, attitude, family life, practice, nature of responsiveness, telephone calls, etc.), all not blatantly ill--yet certainly not <u>really</u> free of ill-

ness.

There were no specific peculiar mannerisms, tics or gestures. His manner immediately was seen as blustering, a kind of overbearing boastful arrogance, transparent in its overcompensating nature. His conversation was difficult to follow. There was an electric or frenetic quality to the examination. Psychomotor activity was moderately exaggerated. His speech was essentially logical, coherent and relevant, and yet was characterized by an effusive tangentiality, gushing in its quality. There was a distinct sense that there was much more psychopathology present than was immediately apparent merely by the verbal productions of Mr. Wolk. This sense was later to be corroborated. The degree of pathology was and is masked by his efforts at concealment thereof, supported by an innate high intelligence, probably still in the near superior range and yet obviously having deteriorated down to near superior range. Obviously Mr. Wolk at one time had a markedly higher and certainly more useful intelligence--at an earlier time.

The concealment of the degree of psychopathology is also masked by his professional training, so that he is able to rely upon jargon and cant, with phraseology which is not truly propositionally composed of the moment, but can be issued forth as legal-stock-phrases. As an attorney uses standard forms for wills, leases, etc., there is that quality of Mr. Wolk using "standard forms" in his speech.

His affect is of heightened intensity, is of limited range and is appropriate to the topical content of the conversation. It is largely depressive and angry, and at times attempted to be concealed behind a "professional" mein in discussing his views on what was "done to him." Always, also colored by the quality of swagger, pompous overbearing self-confidence, and by a somewhat tutorial nature which so characterizes Mr. Wolk's presentation in life.

Although there was no frank systematized clear-cut delusional system, there was very obviously seen a generalized to moderate marked delusional quality and contamination relating

to the subject of his disbarment, and especially relating to Judge Herbert Stern. This delusional quality is far beyond that of a mere personality problem and represents distinctly more serious psychopathology, and leads and had led (as I will develop later) to marked disturbance in judgement relating to all aspects of the matter. There were no hallucinatory phenomena reported, nor were there any evidences for such. What was manifestly present and even inundating, was a severe, almost intractible topical preoccupation with this entire matter, from the onset of the original Walker tort action in 1973, throughout his removal as counsel, the trial-settlement, his notorious affidavit for services the ethics committee's hearings, the final hearing, and even now. He cannot be dissuaded from his preoccupation; he keeps talking. So intractible is that preoccupation that it became necessary for me to regain control of the session by literally shouting, "Shut Up!", and indicating repeatedly and repeatedly that he must shut up so that I could accomplish what I need

to in order to make this evaluation. (It should be noted that the examination was not limited to the examinations themselves in that there were, since I first met him, numerous telephone calls from him, and from his wife at his orchestration, etc. similarly frustrating when talking to Mr. Wolk. At times I literally gave warning I was about to do so and hung up upon the man ... and, hung up upon the immediate following calls back which came from him.)

His sensorium was intact; he was oriented in all spheres, time, place and person, and comprehended his present situation. His memory both recent and remote, was unimpaired essentially. Relating to this matter there was a peculiar dichotomy in his memory (seen throughout the transcript too, incidentally) There was a vagueness and loss of memory about many facts, some of sufficient import as certainly should <u>not</u> have been lost or mixed up. This vagueness was intermingled with a kind of paranoid, litigious hyper-memory about exquisite details. His train-of-thought was clearly impaired, so that

there was the deficiency in goal-direction, with much tangential data introduced, and with a loss of a sense of essentials. There was the intrusion of parenthetical material usually filtered out in the communications technique of the undisturbed. There at times was an almost rabid digression on some "toot" when a particularly vulnerable topic was encountered en route to some point, and Mr. Wolk would not end up at his point, but down the tangential path of his paranoid digression. It should be noted that never was any of this during the time of my examination felt to be of grossly psychotic proportion. Mr. Wolk's intelligence as cited above is felt to be residually in the near superior range, clinically adjudged. No doubt formal testing would reveal that he is not truly able to usefully employ the superior mechanism he possesses, his paranoia and depression disrupting the "programming" or "software" of his intelligence.

Largely most clinical testing and evaluation is difficult because of the powerfully tenacious

facade of competence which Mr. Wolk struggles to maintain (I feel that his skill therein was his paradoxic undoing throughout this matter, in that it concealed, to his ultimate detriment, a psychopathology which was rampant and critical and determinative in what he did and what ensued.)

Judgment was very impaired, as one would assume, considering the above mental status condition. There was marked impairment observed in the dealings with Mr. Wolk in his judgment and ability to collate and correlate various data ... again largely concealed by his efforts and facade and intelligent confabulatory efforts. For every deficiency there was a glib explanation, also defective in part, for which there was a further (also defective) explanation, and so forth.

Insight was nil. Period. Mr. Wolk lacks almost completely any useful introspective capacity, and that, coupled with his obvious facades, and those coupled with his stubborn intransigent unwillingness to see that he was undone and dis-

covered, and yet stubbornly and persistently to elaborate further in this same way, along with residual high intelligence so that one expects more from him, and other qualities and aspects, leads to those people dealing with him experiencing an irritation, hostility, annoyance, even exasperation. One feels offended at the insult to one's intelligence. I certainly experienced this propensity, albeit in a professional vein, and with a compassionate comprehension that this mien and manner derived from illness and not will. Exploration of his other relationships leaves me to believe, as would also be inexorable, that the same mechanism prevails and damages those relationships ... and ... all to Mr. Wolk's blithe, unintrospective, hurt bewilderment. (I am clear and feel I can clearly demonstrate that this pathologic mechanism operated throughout the transcripted proceedings with Judge Stern, with Mr. Langway, with Mr. Krieger, with Mr. Conway, with the ethics committees, and with the Supreme Court Disciplinary Review Board. It operates with his family. It

operates with me. It will probably continue to operate with you and with others unless or until successfully healed. The professionalism of all persons so involved unfortunately has led to amenities and niceties thwarting the expression of such feelings and the direct, more effective confrontation of Mr. Wolk.)

Asked why he was here, he explained effusively that he "wanted to come and see (what it could do) if I needed it ... I never got around to it ... many, many years. I needed help. Why I didn't go I don't know. I can't admit a weakness. I needed help, need help. I am not honestly able to look at myself. I can't be told. Not not told either. Obviously I come apart. My brother-in-law is a psychiatrist (names him). He's in New York. He said I needed help. He didn't commit me. I should have ..." "I never went," he continues, "I couldn't work it out on my own. Why am I here? I need help. I don't know how to express it. I can't express the series of things which left me unable to cope in certain situations. It goes way back to 1972.

Then at this point Mr. Wolk, as if to demonstrate the very "I'm not able to look at myself and be told" quality, recovers from his brief burst of introspective integrity and openness and reorganizes his defenses, and he blusters and explains and justifies, all the while however, to the initiated or psychiatrically astute, continuing to <u>demonstrate</u> what his words deny and his inner "blindness" fails again to see or allow. He did speak of crying spells, disruptive memories, depression, events which "trigger" recollections, his inability to follow conversations, etc. Again, Mr. Wolk, now recovered to his "sound, intelligent act," having donned his "guise of normality" or even superiority, refers to these phenomena as the past, explaining what he felt before the Stern-Hamburger incidents and during them, as if to hope that would exculpate him. However, what he does not know or realize or observe is that that which he cited as explaining the <u>then</u> of his life persists blatantly <u>now</u>. It is unclear

whether he is completely sincere or cites his troubled mind "usefully" for his case in seeing me. However it is of no matter what Leon Wolk thinks about that. In any event, he is correct. He is either someone sick who knows he was sick and deceives himself that he is better; or he is someone who because he deceives himself that he is better must believe he never truly was that sick, and is exaggerating it. In the later case he is somewhat pretending to have been exactly what he actually had been and is. In other words, after a brief shining moment of "letting go" and confronting the degree of pathology, he, ineffectually, feigns its absence.

Mr. Wolk throughout his contacts was in a mutually-excluding double bind, a conflict of his interests. He knew that he had to present a picture of illness in order to enroll me into the idea of psychopathology explaining his troubles and serving his purpose. On the other hand, he had and has an almost intractible need to present himself in a good, competent, superior light, to preserve his pompous bravado. It

was the genuine pathology which won the conflict, of course, and Mr. Wolk generally attempted to present himself in a good light, justifying and explaining what he did wrong and what didn't work for him, attempting to show that there was nothing mentally wrong with him. It was always the other person, society, the courts, Judge Stern, his attorneys, etc. Thus again with paradox Mr. Wolk ultimately attempted to minimize his illness, not malinger its severity. So blatant is his pathology that his efforts were insignificant except as an interesting contaminant ... and consequence ... of his very illness.

Mr. Wolk intermittently would cry in the session; he manifested depression, became upset with triggering recollections. He could not follow conversations in the sessions, not only because of the distracting tangential digressions cited above, but by direct loss of the "set" of the conversation: "What did I say?" "I don't know." "What'd you say?" "I can't focus today." (Today??!!)

He launches into a maudlin, depressed "unbelievable story" of his downfall. Merely the passing of the courthouse in Newark reactivates the entire memory cassette ... he "threw away 30 years" ... he launches into "I have to explain this in my own way" ... and proceeds in a manner incontrovertibly characterized as paranoid, obsessive, with legal cautions of "alleged," or "Let me say it this way," or "a powerful person" had in mind "to embark on a path to destroy me" ... "was and is on such a path," and then Mr. Wolk releases an oft-to-be-told tale to me and to anyone else, of his victimization. I'll represent that his relating this is not merely the embittered reminiscence of a punished perpetrator, but the obsessed, distorted, almost rantings of a paranoidly preoccupied depressed man bereft of his esteem and respect, unable to explain rationally to himself his downfall--and struggling with his overactive hyper-ideational paranoid mind, seeking a resolution he may never find. Perhaps when Leon Wolk truly grasps he is and was sick, and he removes the veil of his de-

fense of illness he will first be on the path to resolution of his disorder.

Within the discombobulated tale he tells repeatedly, basic themes occur, clearly some with reality but distorted by his perception, and clearly some imaginative or over-ideational.

Thus one gleans the story from Mr. Wolk's over-intellectual, formal super-structure rather than hears it directly. This disorder is undeniably seen in the verbatim recorded comments of Mr. Wolk by Dr. Edward Mann, stimulated from Mr. Wolk merely by Mr. Wolk's seeing (observing) one non-descript formless inkblot card of a Rorschach test, and being asked for a simple explanation of what he sees. Most peopple merely might explain a card by saying "It looks like a man, or a woman, doing such and such. That part looks like a table." Period. Mr. Wolk's production was described as (Appearing disturbed at what he "saw.") (And the reader please remember that the blot is actually nebulous ...): "This looks like a person ... one person ... The angle is very odd ... The head is almost

hanging off the table so you can hardly see it but that would be ... We'll give them that ... What I see here is a person that's been split ... (more facial tension) split up the middle and laid open ... (deep breath). This is the split up the middle. It has been laid open ... (deep breath) ... There is a suggestion here of a foot ... In the process of doing this the foot has been cut open and various areas exposed so that there is a muscle laid open and the appearance and the peeling back is that the foot is much larger ... (deep breath) ... The problem with that explanation is that this area down here appears to be the spinal cord (lower center portion of the card) is lower than it should be ... it's almost as if there was a movement during this process that I am trying to describe ... but this looks to me as though it would be a spinal cord. And then there are darknesses and lighter areas in this picture which suggest different types of organs or tissues as they were peeled back ... The reason I say it looks like a spinal cord is that it seems to go right through

the picture to the neck area attached to the head, and the head is ... has fallen off or is not on the same level. So what you're seeing is if I can show you on myself. You see. (Gestures to self) The jaw, the throat ... Those areas off on the sides are some further process of peeling away."

These productions are blatantly, incontrovertibly pathological in severe degree. They represent herniated primary process mentation, occurring with no need of legal defense, etc. It is beyond thespian dissimulation, even by those conversant with pathology.

The theme upon which Mr. Wolk's limitless variations and elaborations reflect: He practiced many years and feels that he had a good reputation. He married, there were hardships. He lost his father. His partner was killed in an accident. The partner had created overwhelming financial difficulties outside of Mr. Wolk's awareness.

Mr. Wolk's type of disorder seems characteristically to require its victim's blusteringly

to deny to himself the deficit, substituting instead a grandiosity.

An opportunity arises--the Walker case. A perfect opportunity to restore all he has lost. A crusade. A child in need! Financial rescue to himself. A child to befriend and to rehabilitate. A legal challenge. An extra-legal opportunity to inspire an adversary to a humanism, etc.

He developed the case (I gather "as best he could"). He achieves some results ... talks to the child himself in New York City at the Rusk Institute where he visits him regularly, takes the child to courts to see that life can go on without athletics, and to interest the boy in the Law. He persuades the insurance company believing or saying it has no liability, to expend huge amounts of money against a losing verdict it may never face ... so that treatment, and maybe lifesaving medical attention is not denied, pendente lite.

He is confronted by the judge (Judge Stern) with apparent conflict of interest. A guardian

ad litem is appointed for the child, Mr. Wolk to represent the parents. He does not fight this though he wanted to, so that the case can avoid delay of appeal.

That guardian ad litem, Mr. Campion, chooses to try the case himself. (I have little doubt, perhaps presumptuous on my part, that it was blatantly apparent to Mr. Campion that Leon Wolk's trying of the case was not in the best interest of his ward, because of Mr. Wolk's mental state. I believe Judge Stern either realized that too, or merely saw the low level of competence imposed by his illness, not realizing illness as its genesis, and was angered. Mr. Campion also may have seen the problem being Mr. Wolk's personality or his inability, but actually it was his disease.)

This was an almost insurmountable blow to Mr. Wolk. All manner of paranoid elaboration ruptured forth, further vitiating his usefulness to his client, and (later to be seen) usefulness to <u>himself</u>.

The case is settled ... for not much differ-

ent from what he almost had it settled for, as he saw it. Fees are to be determined in a million dollar settlement. Mr. Wolk is already "destroyed," frustrated from expression because of his position and the unwisdom within that circumstance of his confronting a federal judge. It is made clear that the contingency fee upon which he had based not only his own rescue of self-esteem and security and stature, but upon which consideration he had devoted extraordinary legal and humanistic time ... that the contingency would be disallowed.

He was ordered to reconstruct a time record. (But from a disorganized set of non-records.) There was none, which fact was openly avowed by him. He could not present an honest objective time record, but was to be allowed to "reconstruct" one. That was impossible. One cannot reconstruct what was never initially constructed. He had to compose one, improvise ... invent one, if one will. He assumed a general leniency and understanding would be manifested. To a well man a reasonable construct would have en-

sued. Mr. Wolk was neither reasonable nor well. The very reason he had been "removed." (I don't think improperly. Probably kindly, allowing his participation, being of counsel.)

He neglected the task ... partly from pique, hurt, bewilderment. The ever present disorganization, procrastination, etc., characterized by his car-trunk full of papers, his office and home full of boxes of papers (see below). Mr. Wolk's mind was a car-trunkful of approximations. (His "As best I recollect's" and "I can't remember's" on the transcripts may appear as evasiveness. They are not necessarily such, certainly not in entirety, though they angeringly appeared that way, of course. Much of what he said he didn't remember or didn't have available, he obtained later, to his defense and dismissal of two of the three of Judge Stern's charges. He <u>really</u> didn't remember or have it available earlier!

Mr. Wolk composed or constructed <u>at the last moment</u> and presented to a now known to be hostile judge an absurd concoction of an invented

time record. Although he denies it, either from his unconscious or from his lying, I feel that what he did was to warrant the original fee he felt justly entitled to, never even getting the mathematics straight, including days of greater than 24 hours length, suggesting consultation time even beyond the implausible, and other egregious offenses to a reader's intelligence.

So blatant was this that the judge questioned him upon it; he defended it (see above his pathological propensity to defend a Rorschach card!, unreasonably and without personal stake). Thus started an enraged judge, cross-examination by him, cross-examination by an attorney for the trustee. Then charges to the Bergen County Ethics Committee. (Specific references to the transcripts of those other times will be made later in the body of this report.)

Mr. Wolk at the last minute obtains an attorney to represent him, without giving the attorney true opportunity to read the records or discuss the matter with Mr. Wolk.

When he was met with a negative decision, his

further efforts are characterizable as were all the earlier ones.

Eventually he goes to the New Jersey Supreme Court, sick, ill-prepared, virtually delusional, and appearing before the Disciplinary Board of Review of the Supreme Court, pro se to boot!

There, in a last-minute "What am I doing!!??", he experiences being ill. He has the insight and so tells the court.

At that point, having engendered disrespect, distrust, annoyance, and perhaps even mockery from all those about, Mr. Wolk's plea is not directly responded to. The court concludes, not without seeming reason, that this is a ruse too. And it denies counsel, psychiatric examination, etc. It allows later submission of data but allows it of a sick man, destined never to act upon this either.

Much later he seeks help. I advise it. He still does not come for much needed therapy.

He awaits until the last minute on a move to disbar him in Washington, D.C. (based solely on New Jersey's decision. He has not practiced at

all in D.C. and not because they had any basis for consideration in so doing). A last minute rush and frenetic organization of a motion.

It is to be noted that Mr. Wolk in his search throughout has attempted to get himself represented, unsuccessfully. It is usually at the last moment, failing to get along cooperatively with his attorney. He attributes it, paranoidly, to "The legal profession lacks (courage)." He never realized how nearly impossible it is to work with him due to his illness. Were I not trained to an objective dispassion, I'd have been annoyed too much to go on myself.

At times I must "employ" anger to control the patient. To tell him bluntly to Shut up!", so I can say something, as he paranoidly diatribes onward.

Clearly until there is removed the basic futility, Mr. Wolk will be unavailable for therapy. Rehabilitation is denied. This is not a proper reason for altering the punishment the court meted out. The proper reason for altering the punishment is the proper reason ... and that

is as cited elsewhere. I believe the court did not err in its decision based upon what was before it. There was, however, critical central data not made available: Mr. Wolk's pshchiatric disorder, and his failure to have it presented stemmed self-reflexively from that disorder itself.

It seems humorous. Because he was ill he couldn't organize a requirement upon him, the affidavit. Because he was disorganized in that requirement he was criminally charged. Because his disorganization was not explained to the Supreme Court he was felt to be venal, and more. The disorganization was not explained because he was too disorganized to do that.

When he disorganizedly realized it, presents it, it is denied because it is disorganized and unsupported (and thus suspect). Because of what makes him disorganized and incapable of supporting it, he does not seize the opportunity to organize it later. He never had a real chance.

Throughout my examination Mr. Wolk spoke of his tendencies to forget, and his tendencies to

be careless and neglectful. So pervasive were these deficits that I feel his production of the time record affidavit-as-an-error was absurd. It was beneath his own ability to conceal, to be shrewd, etc. It sould seem he was obviously sick, because he is not that stupid. Similarly, even though he felt innocent on the other charges (which as it turned out were indeed dismissed after proper evidence was adduced) Mr. Wolk became so discombobulated and felt so victimized that it robbed him of his ability to defend himself on the remaining charges in front of Judge Stern and quite obviously further exasperated that jurist. As all of these developed, they led to a hyper-litigious ideation, constitutional challenges in him mind, raising the issue of ex-post facto decisions by the Supreme Court, and other "legalese" by which I remain bombarded to this day by this disturbed man.

Were a layman to cascade such litigiousness, it would obviously be seen as paranoid. When a lawyer does the same it is missed because it is camouflaged in its seeming appropriate setting--

yet is paranoidly excessive in its own right, per se.

Since the event, Mr. Wolk has slowly been sinking to a smaller office, to yet another smaller office which he sublet, then into an office which he sublet from someone else, and then into his home. A witness told me his house, his cars and his office were filled with boxes of papers. This is not the behavior of a cunning, clever, venal miscreant lawyer. these are the stigmata of serious psychopathology. Mr. Wolk spoke of "When I came out of this trance," he saw his failure to pay attention to details and what he had done. (Although obviously Mr. Wolk has come out of his trance sufficiently to see this, he is not sufficiently out of his illness even to this day to understand the depth of it.) He continues to speak paranoidly of events. In the five years since he has deteriorated, "It took five years for him (Judge Stern) to do the job." This is a paranoid way of viewing the purposefulness of what was "done to him." He lost the details of his life. He did not go to

the office. He failed to get out of bed. He slept excessively. He was very, very forgetful. He waited for the inevitable. He practiced less and less. His practice then dwindled even more. Finally it focussed on only one or two cases, in which he was very intellectually interested, and those took a tragic turn too. That was why so much was invested in this case which he sees as "stolen" from him. That probably necessary (?) action of the judge tripped a latent land-mine in Mr. Wolk's already partially crumbled and still crumbling mental integration. He was traumatically replaced at the last minute, forced to be quiet before the jury, an anathema to him, a humiliation, and he suffered those severe psychiatric consequences which follow unfulfilled significant expectations and thwarted high intention: the pain of "failed purpose" in life.

He holds others now responsible. "They had the power to order me for psychiatric examination. They never did." (Frankly I went into agreement with him on this point. Were all this

to happen to a dear one of almost anybody involved, no doubt the family would have said, "Let's get him to a doctor. Something must be wrong with him." Here the family of his colleagues failed to so perceive it. Of course, Leon Wolk must ultimately take responsibility for his personality engendering such disdain, and yet that too is part of his illness ... in the "Catch 22" tradition.)

Mr. Wolk sees things paranoidly as having descended upon him, not seeing himself truly as the perpetrator. This is not akin to an uncontrite criminal, but is a man who feels he came from truthfulness, albeit stupidly. (And sickly) "I should have been smart enough to go for help." At this point in the examination Mr. Wolk cries, as he again slips into genuine openness and availability in the session, only too rapidly to shift back to his paranoid, slightly grandiose personality stance.

I do not feel Mr. Wolk was, per se, incompetent to assist counsel although unless counsel was advised how to handle Mr. Wolk, Mr.Wolk's

"competence" was deceptive. It could never be brought to bear because of the intrinsic irrepresible contamination he would bring to the attorney and the case.

Mr. Wolk was per se incompetent to act pro se. Perhaps "Any lawyer defending himself has a fool for a client." This lawyer defending himself had a sick patient for a lawyer and a client.

HISTORY

Mr. Wolk's past personal history was difficult to glean from our sessions. It does not seem pertinent to include all of childhood history, educational history, military history, vocational history, sexual history, etc. within this document. The sources of the following information were: somewhat Mr. Wolk in the psychiatric examination, written material which he has presented to me, some of which has been available to the ethics committees and the supreme Court of New Jersey, from interview with Yale I. Lazris, Esquire, his brother-in-law and from his wife, Myra.

Simple objective historical data are that Mr. Wolk was admitted to practice in Washington, D.C. in 1953 and in New Jersey in 1957. He has indicated that he has continued the practice of law for about 25 years which included trial and appeal of cases in various courts, federal and state, including the United States of America. He indicates he has at various times received judicial recognition as to his competence as both a trial and an appellate attorney. He claims there are decisions published in New Jersey and some elsewhere which contain language in which the quality of his legal research have been incorporated into the decisions.

Mr. Wolk served on active duty with the service in Korea in the Judge Advocate General's Department of the United States Air Force, being honorably discharged in rank of Captain. In addition to that federal position he served as a Deputy Attorney General for the State of New Jersey from May 1967 for several years, and more recently, as an assistant town attorney for the Township of North Bergen until he resigned in

August of 1979. He has served in appointed public positions and says he has enjoyed an excellent reputation on a federal, state and municipal level of government service since he was admitted to the practice of law.

Mr. Wolk has taught economics and labor relations for several years at Fairleigh Dickinson University, Teaneck Campus, New Jersey, where he also enjoyed an excellent reputation as an instructor, with a full time faculty and with departmental heads and with students. He enjoyed legal research and appellate practice by reason of his continued interest in academic study of law and related areas. He has the following academic degrees: a B.A. from New York University; an M.B.A. from New York University Graduate School of Business; a J.D. from Rutgers University School of Law and an L.L.M. from New York University Graduate School of Law.

Although initially Mr. Wolk seemed to date the onset of his depressive distress as the time when he was deprived of the right to try the case by the Court's appointment of a guardian ad

litem, a more global overview of Mr. Wolk's life would indicate professionally psychiatrically that a more proper time to date the onset of the clinical eruption of his disorder would seem to be at the time of the death of his partner, I believe about 1972. Mr. Wolk spoke about the death of his partner, about the financial disaster which follwed that, about marital trouble which ensued. He spoke of what occurred within himself with the trouble of the case and its injustices. Although Judge Stern's three charges did not hold and only one was accepted, the effect of those other on this sick man was devastating and interfered with his defense. It is always a source of anguish to be accused and regarded as guilty of something one did not commit. Thus even more devastating to Mr. Wolk that the charge which did finally prevail, and of which he was certainly the doer, there is no question that Leon Wolk viewed himself as completely quiltless of the other two charges. There seemed to follow in him a (sick) vendetta. He feels that actually the sickness of the ven-

detta occurred in both directions and he definitely conveys the angry, intimidating manner of Judge Stern towards him, as well as vice versa. Mr. Wolk expresses his own bewilderment at what he had done in the inaccuracies of the affidavit. He had not fully realized what had been occurring.

He and I understand that private difficulties are no excuse for what he had done. But mental illness may excuse dishonesty which only seemed to be done in a calculated, premeditated way. Two historic bases for these are that the deliberate premeditation was merely an apparency caused by disorganization and inaccuracy, an issue at least partially present in this matter. The second part is that that which is "calculated," although cognitively deliberate, that behavior being motivated from inner dark obligatory forces is at least mitigational, historically. As he relates his history and his feelings of the time, beyond Mr. Wolk's knowledge on what to present, it became apparent that the multiple variegated personal stresses led to mental fer-

ment. There was substantial mental disturbance. This was not only at the time of the "crime" but certainly at the time of the disciplinary proceedings. From what he described I would say that Mr. Wolk was not unable to understand the nature of the disciplinary proceedinngs, but was unable effectively to utilize his "understanding."

The psychological tests reveal him to be a depressed, disorganized, potentially suicidal schizophrenic victim. Many of the false answers which he gave throughout the transcripts that I read, suggested a persecution complex and not a willful perjury in the ordinary sense. Clearly Mr. Wolk had impaired capacity to: 1. form sound judgments, 2. react timely, and 3. gather and collate and usefully present data.

Interview with his brother-in-law, Yale I. Lazris, Esquire, revealed the opinion that Mr. Wolk had not functioned in the last seven to eight years, since 1972. He was originally seen by Mr. Lazris as a nice person, protected, a hard worker, studious and bright, that he had

lots of graduate courses, a masters degree, interested in philosophic education, etc. That Mr. Wolk was a man unconcerned with money matters prior to his marriage. He did not date; he did not go out seeking entertainment; he was always overweight. He had served in the Air Force and in other positions as cited in Mr. Wolk's description. Mr. Lazris indicated that he had felt that Mr. Wolk was disorganized years before the Walker trial. Interviewing revealed that even at that time he was too disorganized to get psychiatric help, even when it was finally prescribed, because living generally ineptly of course leads to one ineptly seeking psychotherapy. In another classically unwise endeavor Mr. Wolk went to a relative in the pursuit of psychotherapy.

He described Mr. Wolk as disorganized but bright, and similar descriptions. It should be noted that all descriptions of Mr. Wolk's difficulties seem to carry associated "explanations," and all are missing the awareness either of the overt psychopathology or the latent psy-

chopathology which was present.

Mr. Wolk had a relatively unstable work history, although he was diligent. His defects were not in the order of being venal, etc., but were those one would expect because he was at the effect of his disorder. Hence one might say that he was at the effect of it rather than the perpetrator. Mr. Wolk is described as always being susceptible and vulnerable to people in the "real" world. He argued with almost everybody. When he married fifteen years ago, his stresses multiplied. He was pushed by his wife to become a money maker at which indeavor he "became a fish out of water." Mr. Wolk's brother-in-law, Mr. Lazris, believes that Leon Wolk was "not right" from the time of his partner's accident, now that Mr. Lazris looks at it. From the classical vantage point of hindsight, he describes Leon as talking and not listening, as being disheveled, dirty, not testing what he says. He describes that there were files all about, in the trunk of his car, with papers scattered around, with Mr. Wolk "never at any

place at the right time," or he was in the right place at the wrong time. He practiced by the seat of his pants. He never after 1972 earned enough money fully to support a household. Mr. Lazris characterized Mr. Wolk as talking at people and not talking with them. He ultimately ended up practicing by himself. Mr. Lazris indicates that he was aware of the inordinate importance that Mr. Wolk put on the Walker case in order to restore his self-esteem and self-security and to do a benefit to a child. He became drawn to be a crusader. He describes Mr. Wolk as a crusader anyway. "It was as if he had no 'live clients,' only different projects." This case presented a humanism, an airhose, a straw-to-the-drowning-man, for egosurvival in many areas which are important to all men.

Mr. Lazris indicated that although he is not clear on the details, he now understands that there had been a route by which Mr. Wolk might have rescued himself financially from the Hamburger affair before it was an ethics matter. He could have agreed to pay the obligation in

that the facts that he spontaneously told me corroborated my sense that this was not an act of cunning so much as a paranoid manifestation. It is to be noted that I did not interview Mr. Lazris until after my examinations of the patient.

Mr. Wolk's practice grew less and less, and then finally dwindled to almost nothing. It was he who indicated how he finally focussed on only one or two cases of intellectual interest and suggested that that was why so much was emotionally invested in this case by Mr. Wolk, and which he felt had been taken from him. I have described this earlier as a perhaps necessary action of the Court, but one which tripped a latent land mine in Mr. Wolk's already partially crumbled and still crumbling mental integration.

Interview with Mrs. Myra Wolk for an extended period was interesting. Mrs. Wolk was not clear on the details of the case. Her husband had not discussed matters with her, but had concealed them. She describes him as a very, very nervous

man. She describes how early in the marriage he was a "nice guy, ethical and moral." She described the damaging effect the death of Mr. Wolk's parents had on him in that interval, for Mr. Wolk had been close and emotionally dependent upon his father and mother. Frequently he would not come home until late because he would go to eat or to sleep at his parents' house. That he was somewhat exasperating because of his impracticality and the fact that he was not interested in making money so much as he was interested in high ideals. She saw this as impractical. This is why she was so surprised to hear that he had done what he had. She speaks multiply of stupid associations which he had entered into in his unwise choice of companions. She felt that Leon was easily misled.

She too indicates that at the time of his partner's accidental death, Leon "came back white, and that's when all the problems started." She spoke about Mr. Wolk becoming increasingly peculiar, depressed, grandiose. He would leave matters to the last minute so that at one

time he had to hand-deliver material to the U.S. Supreme Court in Washington, D.C.--only to deliver it to the wrong court. She cites that he had written the Walker case affidavit all night at a time associated with a trip to Cape Cod, rushing frantically and frenetically to meet the deadline of the Court. He would attempt to stay awake all night and would fall asleep, or to do his own typing.

She saw him as sick, unrealistic. He wanted to send his son to private school; he measured the house for a tennis court. He became extraordinarily obese, then yelled that his shirts were shrinking. He became increasingly irrascible, neglectful of the house, of the office, and of his personal hygiene. After the judge removed him from the case and especially after the encounter with Judge Stern, Leon Wolk became absorbed, obsessed, went to libraries incessantly, talked about the matter constantly, he wrote all over the country. "His whole life went under."

He went to a barber to get a close cut hair-

cut, and thereafter cut his own hair. He looked like a prisoner. He walked around like a man in a fog, pacing the floor. Although he had been disorganized for a long time, he became even worse. (Now to the point of illness.) She spoke about the decline and fall of Leon Wolk through a succession of increasingly embarrassing legal offices until finally he put his office in his own home. He became upset at current event stories. "This man was nuts!" He would walk into the house upset over Watergate. He would deliver a dissertation. He would get vehement about this bastard or that bastard in the government and that they ought to get that guy. He was furious. He was furious at judges and at Nixon. Each time some dishonesty was reported in the papers he went berserk. It seemed incomprehensible. He talked about the matter. He hated things. He was preoccupied. Hate slipped into his life where it had not been before. He would yell at his son. When Mrs. Wolk needed money, he angrily would tell her to sell the house. He could not be spoken to. He

never wanted to hear bad news.

Mrs. Wolk had to go to work. She describes more of his disorganization, that things were all over the house. Suits would just lie there, as would ties, shirts, books, etc. She had to "kick him out of the room." She described him as "He doesn't deal with things; he's not in the reality of things, he avoids issues." Their sexual life diminished to virtually nothing. He began to neglect personal hygiene, took few showers, neglected his clothes. He kept on the same subject and didn't answer anything else. He had this incessant preoccupation with the subject and nothing could "unravel him." His friends couldn't interrupt him; eventually they had to remove themselves from him. He was unable to be included in conversation of any real kind. His room became dirty with cobwebs, there were tables with typewriter, cartons, spider webs, books, papers, all about, nor was she allowed to touch them to clean them up. There were cartons with scissors, sewing material, papers, newspapers, broken this and that, nor could anything be thrown out.

TRANSCRIPTS, LETTERS, BRIEFS, ETC.

In the review and analysis of this matter, I have perused voluminous documents which include but are not limited to the following:

1. C-1: Letter from Judge Stern to Central Ethics dated October 2, 1975.

2. C-2: Letter from Leon Wolk to Bergen County Ethics Committee dated December 3, 1975.

3. C-3: Affidavit of Service of Leon Wolk (basis for Judge Stern's letter, filed August 20, 1975).

4. C-4: A cross application (re: guardian ad litem's fee application, etc.) filed by Mr. Wolk.

5. C-5: Letter from Judge Stern to Messrs. Campion, Wolk, Langway, and to Mr. and Mrs. John Walker, dated June 23, 1975.

6. C-6: Transcript of proceeding before Judge Stern August 26, 1975.

7. C-7: Transcript of proceedings before Judge Stern August 28, 1975.

8. C-8: Various documents, affidavits, etc., filed by Thomas Campion, Esq., throughout the matter.

9. C-9: Letter from Mr. Banta to Thomas Campion, Esquire, dated September 13, 1977.

10. C-10: Reply letter from Mr. Campion to Mr. Banta dated October 26, 1977.

11. C-11: List of Filings and Proceedings.

12. C-12: Contingency fee arrangement between the Walkers and Mr. Wolk.

13. R-1: Transcript of reporter's notes on settlement conference before Judge Biunno.

14. Transcripts of proceedings before Bergen County Ethics Committee, November 7, 1977.

15. Transcripts of proceedings before Bergen County Ethics Committee, March 20, 1978.

16. Transcripts of proceedings before Bergen County Ethics Committee, November 27, 1978.

17. Transcript of recorded proceedings before Disciplinary Review Board of the Supreme Court of New Jersey.

18. Respondent's brief to Disciplinary Board.

19. Decision and Recommendation of Disciplinary Review Board.

20. Order of the Supreme Court of New Jersey dated January 9, 1980.

21. Brief of Staff Attorney arguing the cause for the Disciplinary Review Board before the Supreme Court of New Jersey.

22. Amendment to Mr. Wolk's brief to the New Jersey Supreme Court, dated March 31, 1980.

23. Letter to Bergen County Ethics Committee from law offices of Stein and Kurland dated February 24, 1978.

24. Mr. Wolk's brief in opposition to the decision and recommendation of the Disciplinary Review Board with appendix of documentary evidence not raised below.

25. Photocopy of Daily News article dated Wednesday, December 22, 1976, written by John McLaughlin, photocopy attached.

In the remaining portion of this report, I will comment, though not at all inclusively, upon various aspects of the above documents. I will need to comment at the time I cite in those documents rather than to summarize them with citations and be put into the impossibly cumbersome position of reflecting back later. The matter of Leon Wolk's mental state as reflected in all of these is extremely complex. I would hope there were times when testimony would be admitted before the Supreme Court for I feel I could so much more efficiently communicate my professional views than can you and certainly more than can I in the stilted style of written prose. Such testimony could have the advantage of full verbal elaboration with the added advantage of query by the Supreme Court and cross-examination. I am uncertain of the law, but if testimony is permitted only in extremely unusual cases, I would propose that this is just that kind of case.

Unsure of that, I recognize the need for me to alert you herein to what you can use in your

plea before that court. As such, I do apologize for seemingly "presenting the case." So complex and so inextricably interwoven are my psychiatric opinions upon the various utterances in these documents that it effectively precludes any other style. Indeed at the end hereof it will become necessary because of the complexity, I feel, for me to submit a discussion to sweep up many of the random thoughts, miscellaneous psychiatric opinions hereon, if you will, which defy organized inclusion more systematically in the body of my report. Although I am aware that this report will no doubt be submitted to the Supreme Court, my purpose is to report to <u>you</u> and to advise <u>you</u> from a psychiatric aspect on this matter. Of course you may strike from my report just so much of it as you may feel not to be proper or appropriate for submission to the Supreme Court.

1. C-1: Although labeled C-1, the material in this letter is subsequent in time to C-6 course derived from Judge Stern's experience as reflected in those transcripts and what went before. Thus much of what I will have to say will be with reference to those actual transcripts. In fairness I would state the Judge Stern letter was all that the ethics committee and the Supreme Court Board of Disciplinary Review had. By failing to have Judge Stern testify it was impossible for that board or the committee to derive any data pertinent to the issue of my report, viz: that there were evidences, missed evidences, of mental illness in the performance of Leon Wolk. Neither was Judge Stern available for cross-examination by whomever represented Mr. Wolk regarding that subject. Clearly Judge Stern cites several incidents which led to his attitude towards Mr. Wolk. Personal appearance would have enabled those reviewing to see the attitude as well as the bare facts, and considering what I have said about Mr. Wolk's effect upon the attitude of those in any relationship with him, I feel that this would have been centrally pertinent.

I feel that Judge Stern's letter reflects that he is preoccupied with the obvious errors and thus as is reflected in the transcript of the proceedings, apparently considered all unsupported facts supplied by Mr. Wolk as false. This turned out not to be the case. Mr. Wolk never provided Judge Stern the contrary facts for the judge to correct his point of view. However, in this case the traditions of "falsus in uno, falsus in toto," did not follow through. As it turned out, the testimony of the Walkers was not accurate. Clearly a later discovered letter from the insurance company attested to the fact that they paid the medical bills prior to the trial specifically from Mr. Wolk's efforts. The Walkers' testimony that the insurance company had left an earlier letter promising to do so was untrue, no doubt because of error on their part in the stress of that time. The letter which the insurance company had left with the

babysitter, to which they refer in the transcript, makes absolutely no reference to paying the medical bills. It was an honest, retrospective falsification on the Walkers' part but one which further led to Judge Stern's irritation with Mr. Wolk.

Clearly Judge Stern's letter cites Wolk's affidavit as "shot through with inconsistencies, improbabilities and statements directly contested and contradicted by others, including his clients Mr. and Mrs. Walker." He stresses therein the absurd apportionment of time, some of which go into beyond 24 hours in one day. He cites the exaggeration with reference to conference time with Mr. Nigohosian, and a paralegal employee.

As will be developed below, the massiveness of the inaccuracies and their flamboyantly unconcealed absurdity, proffered to a known-to-be-hostile judge, with a reputation of no small amount of brilliance, is not a clever manipulative act by a "perpetrator." If any man met the test of doing something wrong with a policeman at his elbow, this affidavit to Judge Stern meets that test.

Again, as cited above and will be below, I feel Mr. Wolk's depression and paranoia worsened with Judge Stern's action at that time and thereafter, not only with the hearing before him, and the letter to the ethics committee, but because of his role in the McLaughlin article. (Affixed)

That article is snide, sarcastic, slyly disparaging of Mr. Wolk. As it eventuated some of the items for which he was humiliatingly "exposed" turned out to be incorrect and were dismissed later on in the proceedings. (Those which remain accurate make, of course, no reference to the fact that Mr. Wolk was ill and not merely malicious.) I am not saying that the conclusions drawn by Judge Stern were wrong or inappropriate, <u>given the data he had</u>. Nevertheless,

they beame an effective agent in exacerbating Mr. Wolk's mental illness. One's self-esteem is usually devastated and laid to waste, especially when one is attacked and maligned in just that area of which one was proud of himself before. Mr. Wolk clearly and sincerely had the interest of the child at heart notwithstanding the fact that he expected to be paid at the end and went to sick extremes to accomplish that part of his purpose. It seems sufficiently clear to me from the record and also from speaking to Mr. Wolk, that he did what he did for Robert Walker, not in order to earn a living, but from the sincerity of his heart. This was consistent with the impractical idealism of the man at an earlier time in his life.

2. C-2: Mr. Wolk's letter is for the most part self-explanatory. Again clearly the issues make obvious that these actions all were not the stealth of some evil man. As stated, Mr. Wolk was not that stupid. With a contingency fee based upon a contract in a case allegedly known to be going to produce enormous sums of money in a verdict, Mr. Wolk's disorganization prevailed and he dated the contract prior to the date of the accident. He had a date from memory on his copy but not the Walkers' copy and is in error about that. He has them sign in blank. If ever a man did not protect himself in clever stealth, this was Mr. Wolk. As it turned out, since a letter was sent to the defendants July 12, clearly the Walkers were wrong that they had <u>first</u> spoken to Mr. Wolk in the middle of July. Judge Stern apparently chose to disbelieve Mr. Wolk in Mr. Wolk's state of confusion, generally in favor of the Walkers' testimony, which very testimony allows that <u>they too</u> were in distress in that period and not clear what was going on then. Again one cannot fault Judge Stern for disbelieving Mr. Wolk; he is not a psychiatrist and apparently not sensitive to the detection of mental illness so concealed and so complex as that manifested by Mr. Wolk. Page 4 of his document, Mr. Wolk cites in paragraph 2, "... I was not yet in possession of

Exhibit 6, 7(A), and had forgotten about having in my files Exhibit 2 and 7(B)."

On page 5 he cites that "the courts stated that he had done a fine job up to now." Mr. Wolk believing this to be true would of course be more emotionally stunned when he was removed from the case. It is my opinion that this comment was made as a kindly soothing or mollification for Mr. Wolk by the Court. Judge Stern's later comment that the case first became organized after Mr. Campion's appointment would indicate that he would not truly feel the above to be so and that his comments were part of the formalities and amenities which occur in a courtroom, which certainly have their place in that forum and to preserve a semblance to the public at large. I feel constrained to a unswerving directness however in the arena of psychiatric science. In his letter on page 7, Mr. Wolk addresses himself to the many confusions and interpretations about the actual value of various settlement offers and the final settlement. Such considerations stagger my mind. Various experts, albeit possibly with different vested interests, have provided alternate analyses of the values. Naturally Mr. Wolk with or without illness, but certainly with it, would be drawn to that most valuable to himself. This is human enough. It should be noted that Judge Stern later cites the insurance company's exaggeration of the value of part of its settlement because that over-valuation was in the insurance company's interest nor is there a suggestion that that was perjurous or improper.

There is a somewhat pitiful quality if one would think that way, in Mr. Wolk's letter and his continued stultified defense of himself merely by the childish reiterating and reiterating and reiterating that he had relied on contingency fees, that this was all based on his recollection, that this was a catastrophic case, and that he had taken care of the little boy. Nowhere does he truly attempt to deal with the salient issues of his seemingly criminal aver-

ments. But most obvious of all he fails to recognize or claim the fundamental defense which is that he is disorganized and mentally ill.

3. C-3: I have examined carefully Mr. Wolk's affidavit down to quarter-hour representations all gleaned from his memory and disorganized construction from the various papers he possesses. Clearly many such papers must be missing for which he cannot take credit. Clearly he does not know how much time he spent on a letter to this person, or reading this document or that document. As I summed up the amount of hours claimed for April 11, 1975, I came to more than 33-3/4 hours as computed by Judge Stern. Parts of the affidavit obviously and without defense, save for that of mental illness, are gross exaggerations such as the hours spent in conference with Mr. Bardalato and Mr. Nigohosian. Also the claim of 3,000 hours in two years time is an obvious exaggeration; I am fairly clear that Mr. Wolk considers that he had spent almost full time on the Walker case since it was so topically preoccupying throughout that time. However, setting aside for the nonce those "indefensible" exaggerations, I feel there is a significant point mixed into the "now Wolk's gone too far, let's get him" development.

Where much work by a professional is done over a prolonged period of time in an episodic way, and where one's organizational systematics is not as precise as those incumbent upon members of firms such as Shanley and Fisher, there is a general approximation within honor and reason of the amount of work devoted. I myself use a stopwatch when reading documents so as not unfairly to charge for interruptions, for telephone calls, family interruptions, etc. However, where I have done 9, 10 or 11 hours of reading not on one day's time, I usually select the date of completion for the 11 hours' reading and charge for that day, in my form of billing. Seeing that I saw patients on that day and did other personal things, some clear analysis of a

record could indicate more time administratively allotted to one day than could have been devoted reasonably within that day. However I do know that am, perhaps compulsively, fastidiously accurate in the amount of time charged for. I have no doubt that this phenomenon absolutely was operative on those seemingly infamous "extended days" of Mr. Wolk. As I look at what he claims for April 11, 1975, each and every item obviously was work that he had done. There seems no representation of work which he had not done, nor any particular exaggeration on any one item. Clearly to me, and perhaps I am missing something, this is an administrative error more than a criminal intent, and Mr. Wolk was hoisted on the petard of other gross exaggerations and those angering qualities about him, cited before. Capital is easily made of a 33-3/4 hour day (which I counted as 35 to 36 hours); it is dramatic, it is humorous, it is easily misunderstood, and I feel with charity might easily also be understood.

I don't know what Mr. Wolk's fee is per hour but as stated I would hazard that he chose a number of hours to justify a fee to which he felt justly entitled. It is based upon his illness that he stubbornly and recalcitrantly adheres to that view about his contingency fee, despite his amenities in court of realizing that it is up to the discretion of the judge. Mr. Wolk to this day feels his entitlement. He argues it. He presents it. He did so in a metaphoric suicide before a brilliant, antagonistic, known to be fastidious federal judge. Again, a crime committed with a judicial policeman at his elbow, and in a sense, insults the intelligence of that policeman into the bargain. Mr. Wolk has a global self-defeating propensity.

4. C-4: There is nothing new by way of psychiatric comment which is stimulated in me from this document.

5. C-5: There is little comment to be made upon this document. I would note that in his characteristic, unrelieved, disorganized procrastinatory way, Mr. Wolk failed to meet the August 11th deadline cited in Judge Stern's letter by more than a week.

6. C-6: By way of unswerving directness again, I feel constrained to present my view of what else might be considered and ask allowance for what may be considered presumptuosness, in favor of my duty to express with integrity my full view.

I am also reading the transcripts as if from Mr. Wolk's eyes and mentality at the time he was experiencing the hearing.

Page 2/ Line 22: Judge Stern asks if anybody had thought about the best way to proceed even though "the discussion" had already occurred with Mr. Langway and the hearing was already set up. This of course may not be improper but I ask that it be looked at through the eyes of a paranoid, suspicious person feeling victimized. Mr. Wolk is not stupid. He detected the inconsistency. Had he been examined first he would have had much more to ask of the others involved, especially Mr. Campion, but feels Mr. Campion was put first and it never became truly available for him to go further.

P 8/ L 21: Again in fairness it seems these questions de novo addressed to Mr. Campion were to set a background and base from which to attack Mr. Wolk's expected testimony from his affidavit. Mr. Campion had never made reference to an amount which would question reasonable billable hours per year. And the same pertains to the top of page 9.

P 18/ L 19: This question asking if Mr. Wolk wants an attorney during the examination was not truly fair-warning of what was to come. Not at the moment and not when viewed later in the hearing by Mr. Wolk and most certainly not when

seen by him over all, especially from his position of illness and paranoid coloration to his perceptions. Whether or not it was, it looks like part of the setting up. Frankly, a similar offering to Mr. Campion is almost a mockery,f and perhaps even put Mr. Wolk off guard, when if anything he was entitled pointedly to be put on notice, given his "Miranda" as it were. Judge Stern clearly knew what was coming. At the end, after the trap was sprung, Judge Stern then strongly recommends to Mr. Wolk that he get an attorney.

P 19/ L23: Mr. Wolk raises the issue of the contingency fee knowing the judge had ruled it out. As cited above in this report, in a paranoid way Mr. Wolk has contingency in his teeth and is unable to let it go.

P 20/ L 14 through P 21: At line 14, Judge Stern leads Mr. Wolk into agreement with the Linde case, a leading question to an intimidated respondent. In line 20, Mr. Wolk steps into it. On page 21, Judge Stern interacts with Mr. Wolk in a way I would rather not characterize but which at the least, is intimidating.

P 21/ L10 and thereafter: Long before he is charged by Judge Stern, Mr. Wolk states and restates he did the affidavit by recollection. re is an apology for the total "winging it" inaccurate nature of his affidavit, that his claim is based essentially on the retainer agreement, etc. (It is lmy feeling that Mr. Wolk felt justified, and thus no doubt fabricated some of the time in his affidavit to equal what his justification was.) The disorganization of days and the exaggerations were rampant, for he apparently did the work in lesser amounts. It may be seen that he did so not because he was goughing inhis mind, but that he was protecting what he thoughtwas his entitlement. He felt he was being robbed, that he had done the work, and now was being plotted against.

P 22/ L 4: Judge Stern needs to get the commitment to catch Mr. Wolk in the act of seeking his contingency sum rather than a "reasonable" fee and on line 8 Mr. Wolk still holds out for the contingency.

P 22/ L 12: It seems here to me, the judge is inviting Mr. Wolk to seek more. In his answer just above Mr. Wolk said he would be perfectly satisfied to receive what is due him within the terms and provisions of the retainer agreement. Nowhere can I find where he says more. Judge Stern says more in line 12, with a leading question, "Isn't that so?", basically giving a statement as a question. Mr. Wolk denies its validity, says, "Quite frankly ...," but is interrupted. Mr. Wolk is in no shape to be argumentative with Judge Stern or to be subject to Judge Stern's arguments.

P 23/ L 24: Mr. Wolk is unsure of the amount that he has collected from Mr. and Mrs. Walker. It is to be noted he actually is not clear. This cannot be merely evasive. Clearly the Court knows the exact amount. As we shall see, Mr. Wolk is unclear on these figures. Later on he literally does not remember the date of the accident, and in a case which is so saliently central and important in his life!

P 24/ Lines 1 to 4: Mr. Wolk again asks for the contingency, feeling justified, not greedy, he is even here without mens rea! And yet Mr. Wolk has not even worked that out! Here he is at the announced time and place of asking for his fee and he doesn't even know for what he is asking. (Later to be seen as yet another source of annoyance to Judge Stern.)

P 24/ Lines 12 to 22: Mr. Wolk disclaims accuracy mathematically. He cites the contingency agreement. He switches and says in effect he asked the court to award fees for services rendered. He is "content" under either formula, he says. He would not ask for more due to complications. He cites finding himself needing to

construct affidavits. Heis confused about how to include the fact of the guardian ad litem, which is a problem unique to him.

P 25/ L 24: Judge Stern asks Mr. Wolk what he should do and says that he (Judge Stern) has made no decision. This is implausible. His decision was made clear and his intent for the day seems to have been "discussed" and clear. Judge Stern knew he was not going to award a contingency fee.

P 26/ L 20: Judge Stern says, "... frankly I have great difficulty perceiving what you are saying." (Correct.)

P 27/ L 10: Mr. Wolk bases his fee on 1.6 million dollars based on testimony! How could he hope to deceive a judge openly? And Judge Stern? And with attorneys with opposed interests poised to cross-examine him, after previous discussion? Mr. Wolk confuses the facts, but openly. And with no hope of deception of all the professionals, least of all Judge Stern.

P 28/ Lines 2 to 9: Mr. Wolk is confused between the actual settlement testimony and his preparation facts, and they themselves are confused. And all in all the paragraph makes no inherent sense.

P 29/ Lines 17 to 25: Mr. Wolk is interrupted before he can organize his thoughts. In a man with inherent difficulty in doing so.

P 30: Continues to reflect the inherent difficulty in communicating with Mr. Wolk.

P 31: Mr. Wolk indicates his uncertainty as he had done with his affidavit facts.

P 31/ L9: Mr. Wolk is given an ultimatum, "I will not ask you again." He would be denied relief! The Court asks for a definite dollar and cents amount, and the respondent stated that he cannot give it with certainty.

P 32/ L 10: Mr. Wolk resists inaccuracy, aware of his confusion.

P 33/ L 7: Mr. Wolk has not even computed his demands. He attempts to do so in very front of Judge Stern ... hardly manipulative or sly.

P 33/ Lines 9 to 13: The facts are in Mr. Wolk's notes but he didn't bring them to court! This is characteristic of his confusion and disorganization. He is never with papers on hand. He is unclear in mind. It is the messed-car-trunk, attic syndrome, the boxes-of-papers syndrome.

P 33/ L 16: This seems another leading question by Judge Stern which Mr. Wolk accepts but he does not actually assert himself. He basically says whatever you say, your Honor. He is beginning to get humiliated, a very vulnerable area for this very proud, grandiose, deteriorated man left only to bluff through life.

P 34/ L 4: The repetition of "the infant Robert Walker" begins to build the aura of condemnation and greed, sarcastically. Mr. Wolk is questioned on testimony and does not know for sure. He is vague; he is apparently seen as evasive.

P 37: Judge Stern begins to rail at Mr. Wolk who did not deny what Judge Stern said but yet is treated as if he had, to get him further out on a limb.

P 38/ L 7: Mr. Wolk hesitates "to answer a tough question."

P 39: This seems an interaction only able to be based upon error and non-comprehension--hardly a clever manipulation of a judge with far superior intelligence, and who is far more intact. Mr. Wolk's confusion is showing.

P 40: Mr. Wolk speaks of protecting the child's money and corpus. Yet in the later news article, he is portrayed as being mindless of it--a deep hurt which exacerbates his paranoid propensity; and on P 41/ L 3 is the amenity, "The Court appreciates your concern for Robert Walker."

P 41/ L 15: Mr. Wolk continues to leave it to the court. (He has no choice anyway.)

P 42/ L 11 onward: Mr. Wolk says he wants the court to make the finding of the money, he only presents his thoughts on it.

P 43/ L 20: He still has the lost-papers syndrome. This is <u>not a ruse</u>. The papers <u>do</u> exist and are actually found later, too late.

P 46/ L 18: Mr. Wolk avows he hesitates to state because he does not know, and has no way of knowing. He admits therefore to hedging from his ignorance.

P 50/ L 22: Mr. Wolk bemoans not questioning Mr. Campion, for Mr. Wolk does not know the answer to the question which was asked of him and expects Mr. Campion will.

P 53: More confusion: Mr. Wolk allows he knows not. The experts disagree. On line 12 he says, "I honestly don't know."

P 59/ L 15: Mr. Wolk says he does not feel his fee should be increased over the contingency, but cites again it could be.

P 60: Judge Stern indicates he can determine a lower fee. Mr. Wolk says that he does not know and he is not certain.

P 61/ L 4: The judge asks, "Are you saying now I do <u>not</u> have discretion?" (This is <u>not</u> what Mr. Wolk said at all; what he had said was that either is possible, that he didn't know.)

P 62/ L 1: Judge Stern shows his annoyance with Mr. Wolk's lack of understanding: "Don't you speak English?" Material is read and is not clear to the respondent. (For example, the guardian ad litem's fee could be taken as an expense and the contingency retainer operate on the balance, or it could be viewed as a partial trial as the respondent says on page 63, line 2.) It seems clear to me that Mr. Wolk has been and is being considered the bad guy.

P 64: Judge Stern advises Mr. Wolk about his concern about the 3,000 hour claim. Mr. Wolk begins to say he didn't state that but is interrupted. He is advised to get an attorney but given a very short time to do so.

P 67/ L 19: Although Mr. Wolk clearly had acted in his distorted way from something he was told by Judge Stern's law clerk, as I derived from what he said to me and from his papers, namely that the clerk had said something along the line of "Do the best you can," nevertheless at line 19 intimidatingly the judge says, "Are you telling me my law clerk gave you permission to do something?" and Mr. Wolk backs down and says, "No, I am merely indicating, your honor, that I indicated ..." And the Court interrupts to express its annoyance again with the fact that Mr. Wolk is "indicating he is indicating."

P 69/ L 12: Mr. Wolk selects a date of "tomorrow" to which even the judge objects. However, with too little time to obtain a defense attorney or perfect a defense, a date is nevertheless selected: the day after tomorrow.

On page 74, generally Mr. Wolk is seen as seeking an attorney as necessary, but nevertheless he presses on in this hearing without one, and is allowed to do so.

7. C-7: P 82/ L 12: Mr. Krieger appears for Mr. Wolk and says that Mr. Wolk said the Court suggested he ought to have counsel. The Court denies it, yet in C-6: P 80/ L 1, the Court

addresses itself to Mr. Wolk's alternatively claiming the right to an attorney and waiving it and say, "I think you do yourself an injustice. Get yourself a lawyer."

These exchanges and cavilling by the judge that he had not suggested an attorney but had given permission, even if it were true (which it turns out it was not), indicate the peeved attitude of the Court towards Mr. Wolk. I humbly suggest that Judge Stern is scolding and belittling and intimidating, completely unaware of its effect on this disturbed attorney.

P 84: Mr. Krieger is denied an adjournment although he had limited time to prepare the case. I humbly suggest that Judge Stern is clearly scolding the attorney and arousing anger in him, despite the interchange wherein the attorney throws down a paper clip, is admonished by the judge for doing so, claims that he only put it down. The judge asks, "I hope you are not expressing disgust with me?" Then there is a disclaimer stating that there is respect. (No doubt both respect and anger, which occurs, but in the obfuscation of court procedures is accepted.)

P 86/ L 18ff: The judge denies a conference off the record in chambers. He advises then the attorney not to be inhibited which he could not logically advise were the attorney not inhibited, nor can the advice, of course, not to be inhibited eliminate the inhibition. To wit, the attorney, having announced he is ill-prepared, raises no objection when the Court insists upon proceeding. But the attorney must proceed only on what Mr. Wolk said to him since he did not read the record nor was there time for him to do so. Thus not only did Mr. Wolk "wing it," but the attorney himself was to "wing it."

P 128: Mr. Wolk rambles on. At one point Judge Stern says, "Wait a minute. Listen Mr. Wolk. Will you get a grip on yourself and simply answer the question that I am asking you?" The

judge continues to respond to Mr. Wolk's disturbance, yet does not consciously recognize it.

P 128-129: Reflects what appears to be an intact person. However careful analysis shows Mr. Wolk does not recall; he confabulates, falls back onto "that's the best of my recollection," or "I don't even recall that, your Honor, because the sequence happened very fast ... Rapidly there were conversations between myself and representatives of Liberty Mutual Company."

The Court, as the examiner, notes he is wandering off and believes he is evasive. It believes it is evasive only. Evasive it is ... but it is also because he is not clear, remembers little, made no notes, and is inclined to "diffusion in his thinking processes." (See Psychology report.)

P 134: With so much at stake, Mr. Wolk never even properly executed a contingency fee agreement, had it signed in blank, no copy to the signer, the wrong date, added another date, and gave the Walkers a copy without the corrected (and still wrong) date. One must see this not merely as criminal and as greed, but as disturbed mentation.

P 140: Mrs. Walker errs in testimony about the insurance man's declaration. She speaks about what "the girl at home" told her, but the actual note, produced later, said nothing to the effect such as that to which she testified. This is another inflaming event which angered those involved and led (along with Leon Wolk's annoying manner from his disturbed thought process) to the assumption of greed, stealth and falsus in toto.

P 143/ L 20: Mr. Langway speaks of "a discussion" with Judge Stern unknown to Mr. Wolk. Dynamite for paranoia.

P 164/ L 3: Judge Stern said he "Heard the attorney reach and grope with straws ..." Grope is correct. Judge Stern's conclusion as to the source of the groping, I feel, is not correct. What is correct is that the groping is from illness.

P 167: Judge Stern notes that Mr. Wolk filed forty pages in which he detailed every day for two years by the quarter hour which he spent. Again one can only say that such an absured presentation after repeated avowing that there were insufficient records can hardly show simple criminal or unethical intent.

8. C-8: There can be no comment upon this document except admiration for its clarity. No clarity or organization even remotely like this, sadly, is available from Mr. Wolk's mind.

9. C-9: Requires no comment.

10. C-10: There is no psychiatric comment to make upon Mr. Campion's even-handed letter to Mr. Banta.

11. C-11: At first it appeared this document would warrant no psychiatric comment. I was unwilling to play investigator and to deal with what appeared to be a simple, objective recording of facts. Interestingly, however, I selected at random one entry, that of 1/16/75 (January 16, 1975). I am unclear of the meaning of some of the entries and notations.

In his affidavit on page 2 under Court Appearance Time, Mr. Wolk lists the hearing on this motion as being January 13th; on this document it is listed as January 16th. Obviously he was at the hearing. The exact day is not clear, and most certainly not clear, is the mere administrative entering upon the record for billing. I do believe much of this sort of thing as described elsewhere, happened, which explains at least a significant part of the over-attributing of time to any one day. As stated before, most

of the entries were for work done. On some days there was the false assigning to a specific date of the work actually produced. The administrative error is not a venal deception of any substance when this happens, since the fee would have been due. I am aware this does not account for some of the gross exaggerations which certainly do not fit explanation of this sort.

12. C-12: What comments to be made upon this document have already been made. It is gross and multiple carelessness on a matter of singular importance to Mr. Wolk himself. His legally unfastidious, perhaps sloppy way of executing the document has no substantial bearing on its standardness and propriety. Mr. Wolk runs a sloppy "Momma and Poppa" law office.

13. R-1: I did not review this document.

14. Transcripts of Proceedings Before the Bergen County Ethics Committee, November 7, 1977:

P 25/ L 19: "... Mr. Wolk initially responded that he did not keep detailed time records, but was pressed by the Court to file an affidavit of services in such detail as he could."

Much of this hearing is commendably conducted in an evenhanded manner and very objectively put in summary. The issues are cited. The fact that Mr. Wolk copied Mr. Campion's record apparently was some effort at mimicking a structure he couldn't create.

P 34/ L 18: It is to be noted that the Board felt that Mr. Wolk over-reached in claiming credit for the beneficial cooperation from Liberty Mutual in terms of medical care for Robert Walker (whom they mistakenly describe as the defendant), as was set forth in Judge Stern's letter. What is interesting to note, once again, is that Mr. Wolk's claim turned out to be true after all, and that it was inadequately defended by him, and yet was really easily defended--later.

P 35: The Board supports Mr. Wolk. Again it is important to see that Judge Stern sincerely believed otherwise and was angry. It is true that we do not believe what we see, but that we see what we believe. At this point, it is apparent to me at least, that Judge Stern believed falsus in toto ... etc., but we see here that that tradition did not truly apply.

P 36: It is noted that Judge Stern did not, at the time he initiated the complaint, have the benefit of many items. It is important that he might have had those items had Mr. Wolk been represented adequately, or adequately been able to represent himself.

P 45/ L 23: Mr. Banta comments that it was his opinion that not all of the material was before Judge Stern or else Judge Stern might not have taken the position that he did. It is also important to note that Judge Stern, not necessarily improperly believing this, did act in a way which destroyed the relationship and the status of Mr. Wolk in the eyes of the child and his parents. This was truly a devastating experience for Mr. Wolk. It was as if he were stripped of all.

P 50: This deals with the issue of the exaggerated settlement figure arrived at by Mr. Wolk. My own response to this as I read it is that the determination was technical and likely to be distorted, of course, by Mr. Wolk, or any other person not so adept in economics. It obviously gave room to various economists to come up with widely disparate answers and who were prepared under oath to proclaim them. Certainly this was not a venal obvious effort at deception, and it was written long before any particular altercation existed, and before Mr. Campion entered the case.

P 54: The Board concludes Judge Stern had some erroneous impressions with regard to Mr. Wolk's endeavor to try to respond to the Court's inquiries spontaneously without having sufficient

opportunity to prepare himself for thee types of inquiries. The "cranking in" an inflation factor as cited by Judge Stern was really the "Momma and Poppa" shop way Mr. Wolk practiced law. This was not from cunning, but was from his own limitation.

P 57 ff: One can note the effusive parenthetical comments which derive from Mr. Wolk's illness and his impaired ability to exclude parenthetical and tangential phrases and thoughts. Herein is again demonstrated the impaired Goal-Direction of his thought processes. When this occurs, the average listener concludes a "snow job." These parentheticals in a "snow job" are the technique of the "bullshitter" in the vernacular. It generally conveys a sense of insincerity, of a con man, etc. It generally occurs in a defensive situation.

The other phenomenon in which this occurs is the disturbed thought process of a patient. I represent it was largely this factor (as is graphically and metrically delineated in the psychological tests of Dr. Mann), compounded by the situation with defensiveness which led to the similar over-explanation to deflect possible counter-attacks to his statements. (This is why honest witnesses are frequently garrulous and unresponsive, since they are expecting an attack on their testimony and are defending their intended testimony prophylactically, in advance.)

P 60 ff: Mr. Wolk explains his role in obtaining the child's transfer to the Rusk Institute and the insurance company's undertaking the medical expense. The error of Mr. Walker is made clear, for this <u>was</u> from Mr. Wolk's effort, as is evidenced from the insurance company itself. What occurred before, in the courtroom, and in their questioning of Mr. Wolk, seems now to demonstrate clearly the cavilling with him which was an effort to "catch the liar," since most good men are offended by a liar's insult to their intelligence.

P 62/ L 14: "... I'm sorry if I ramble a little bit ..." (Consult the psychologicals and my discussion thereof to account for the rambling.)

P 67: Discussion of the date of the retainer with the second date added, etc., etc., indicating more of Mr. Wolk's discombobulation as previously discussed.

P 70/ L 1: After all of it, one sees that Mr. Wolk, even after making the correction from the contingency agreement, does not even know if the correction date is accurate either.

P 81/ L 3ff: Mr. Wolk speaks of his efforts of motivating Robert Walker toward academic lines. This is continued on page 88 when he discusses more of his personal interest. He took Robert Walker to meet a United States attorney who was paralyzed and in a wheelchair (Mr. Braniff of the United States Attorney's Office in Newark). He took Robert Walker to court to get him interested. He took Robert Walker to meet a judge in Hackensack who was a paraplegic. Mr. Wolk speaks of these with high credibility, as I judge it.

P 91/ L 13: Again Mr. Wolk comes unprepared and does not have with him those records which will support what he says.

P 93 ff: This whole discussion continues to be an example of the "Momma-Poppa," undepthful, lesser professional-quality work characteristic of this man's limitation and mental state, not his willful premeditation. The, unwilling to look <u>dumb</u>, (an anathema) he elaborates upon the weakness, adding an element of stealth, which was not present at the time it was spoken originally. This is characteristic of paranoid, grandiose elaboration and its misunderstood effects upon the listeners.

P 95/ L 9 ff: If Mr. Wolk knew the $870,000 figure was inaccurate and knew that actuaries

were at the trial, why would he make a statement contrari-wise? This is another example of a "crime with a policeman at your elbow." Please note how his answers are frustrating to the committee.

P 99/ L 2: Please note the Board's awareness that Mr. Wolk was "upsetting Judge Stern."

P 101: Here one sees that even attorneys are confused on the actuarial matters and what was introduced when. Please note that the on-the-spot requirements of Mr. Wolk before Judge Stern are even more of a stress than at a conference. The problem is that because of his paranoia, what Mr. Wolk doesn't admit, he bluffs.

P 110: It should be noticed that Mr. Wolk has never operated upon a fee for service basis.

P 118: Please note everyone is amazed at the blatant absurdity of the 33-3/4 hour day, etc. I can only reiterate the source of such an error being possibly as I described above. Much more likely to happen because of the psychiatric disturbance. The most remote of all liklihoods, to my professional thinking, is that these errors presented, just as the 360 hours instead of 36 hours spent with Mr. Nigohosian, are blatant absurdities, that the error and clumsy "reconstruction" were by carelessness, perseveration of what may have been an original typographical error, but not that Mr. Wolk is so stupid as to believe this blatant document, if knowingly submitted, would be passed by such a man as Judge Stern. To me the main pathology was in the attempt to cover his blunders.

I would point out that even now, Mr. Wolk continues to speak grandiously with hyperbole, and where there is no gain in his doing so--in fact, a distinct loss. Our relationship is strained with the telephone calls, etc. I have never had a more annoying or difficult patient, client. If listing of 560 hours conference time were an attempt to deceive the court initially,

it is one of the most rank amateur deceptions I have seen.

15. Transcripts of Proceedings Before Bergen County Ethics Committee, March 20, 1978.

P 43: The committee describes the affidavit as perhaps cavalier, casual, arbitrary, never mentioning cunning. I do not feel that his was a good faith effort or a bad faith effort. There was no effort at premeditation. Again it becomes apparent in here that Mr. Wolk merely knew what he felt was a fair fee and constructed the number of hours to meet it. There was no way for him to truly "reconstruct" a history such as he presented. He was forced into inaccuracies, which he resolved in his own favor, and stubbornly and stupidly and sickly supported the unwisdom into which he was ordered. A more accurate thing would have been to explain his tale instead of offering a sham accounting. He in effect was asked to create a diary. He would have suffered loss on an estimate by those things left out. In panic, resentment, humiliation and illness he resolved all error in his favor, and then some, and hid the unaccountables, the forgotten meetings, calls, discarded papers, etc. Certainly there was much work done that has no residuals left in his file.

P 57/ L 16: Mr. Wolk does not remember what his compensation from the case was. There is this interesting dichotomy of "disowning" psychologically the case, at the same time he is preoccupied and obsessed with it!

P 59/ L 22: Mr. Wolk again reiterates the "Do the best you can" from Judge Stern's clerk, when he told him he would not be able to do the affidavit. Mr. Wolk did "the best he could" and it was not very good. Mr. Wolk continues to feel that the 4% fee, the destroyed client-attorney relationship, his relationship with the patient, and the psychological and financial trauma and punishment have been excessive. I feel he has been damaged by the delay of five

years before final action by the ethics committee. He never revealed his condition to his attorney(s) or court. It was never detected because of his peculiar personality and because of the illness itself. Mr. Wolk still, somewhat grandiosely, feigns competence as he speaks about the quality of his depositions, his interview of fact witnesses, his gathering of engineers, actuaries, economists, and a "world renowned" treating doctor. He tends to use terms like this even in referring to local professional assistants.

16. Transcripts of Proceedings Before District Ethics Committee for Bergen County, Monday, November 27, 1978.

The predominance of this proceeding dealt with the Hamburger matter. There seems little point in the analysis of this document, with page and line reference. It should be noted that the Hamburger and the Stern complaints are for a similar period of time. In both, Mr. Wolk had no hope truly to "get away with it." His failing to defend the suit could only have brought to light his negligence; and failing to defend the suit seems unlikely to be an action of one wanting to hide mischief.

17. Transcript of Recorded Proceedings of the Supreme Court of New Jersey Disciplinary Review Board, July 18, 1979:

It seems at one and the same time both necessary and yet superfluous to stress again the inherent unwisdom (born of Leon Wolk's pathological grandiosity) in his acting pro se. Or his acting pro se is derived from his difficulty in obtaining an attorney, which difficulty also derived from his illness. I made the following observations on this transcript.

P 3: Mr. Wolk at that late date attempts to ascertain what has been submitted to the court. He requests to add supplements. Now?!

P 6: Mr. Wolk asks adjournment at this late date to obtain counsel, to present arguments and a brief. This derived from his illness and not from cunning. It is denied because there have been too many delays. It is important to note the delays were never his. What loss might there have been with one more delay after almost five years?

P 6/ Lines 15 to 20: I feel in a way this indicates the stilted unprofessional structure of Mr. Wolk's speech, while he attempts to be professional, yet always showing his imprecise, diffuse thought processes. "I might add by way of a little bit of background ..." He "... was advised just very generally what the proceedings were, and the posture they were in."

P 7: Mr. Wolk is unsure of when he received the decisions. Before the New Jersey Supreme Court, Mr. Wolk "wings it" again. Rather than remember with his disturbed mind, he constantly must refer to documents (which he rarely has, or has available).

P 8: He cites he has counsel and requests adjournment. He does not admit awareness of a letter from Mr. Conway, the contents of which he could not not remember had he gotten it, namely Mr. Conway's letter refusing to represent him any longer because the client wouldn'tcooperate with him. (A cooperation not deliberately withheld, but one truly not available to Mr. Wolk to afford his attorney.) All aboard seem to run into this same trouble with Mr. Wolk, or more precisely, with Mr. Wolk's pathology.

P 10: Mr. Wolk denies recalling receiving the letter! If this is a lie, it is a stupid, inept one, and if not a lie, it is an indication of his distractibility and illness.

His failing to get his mail or correct the condition which led to that by virtue of his multiple moves is another sign of his mental impov-

erishment and disorganization. As is the multiple moving of his office cited earlier such a sign of his instability. As is the failure to receive material until just proximate to a Supreme Court matter of major import--without searching out reason and correcting it--and tracking down what it was he so vitally needed.

P 11: The board expresses dismay at the several year delay, yet it was not a delay due to Mr. Wolk. The adjournment was denied. An opportunity to attain counsel after the hearing (?) is suggested--and--Mr. Wolk failed even to do that.

P 13/ L 11: Wolk is asked if he understands the perfectly clear) motion; he does not. An opportunity to reopen is left. Only later does he get to pursue this and fate winds his way to my consultation.

P 14: Mr. Wolk avows he does not know the role of argument in this situation, but his wording reflects his discombobulation: "I'm not at all sure, quite frankly, what effect, if any ..." and this is after over 20 years of practice as a lawyer. Mr. Wolk is becoming acutely aware of his deficit. He thinks he has obtained counsel. He says Mr. Ruvolt "has indicated he'll appear for him," but "indicated" is a common jargon of Mr. Wolk's, is vague, since no retainer was paid nor even discussed, nor was a retainer signed!

P 15/ L 6: The board expresses its awareness that Mr. Wolk has "missed the point of the proceeding that just took place ..." Still they are, as the Court was, not consciously aware they are dealing with disturbed mental processes.

Mr. Wolk says he understands, but the board has just seen evidence that he does not and only thinks that he does, or bluffs that he does. they advise this disorganized man to "Listen very carefully." But he cannot. They are lay-

men which certainly explains and excuses their fmissing his illness. I represent that miss it they did.

P 15/ L 21: Mr. Wolk is asked about any other complaints pending with the ethics committee and denies any. He is alerted and again seems evasive and weaselly. Again to deny it to the body who has it and discussed it with him? Yet another "crime with a policeman at his elbow"?

P 18/ L 9: The board cites the "gross nature" of the exaggerations of Mr. Wolk. Again I represent psychiatrically that such gross exaggerations were of illness and obviously not of stealth! It was not just gross exaggeration, but gross psychiatric disturbance. In psychiatric practice, it is not infrequent that we see that what is gross pathology is missed by virtue of its being explained away or misinterpreted by those around the patient. Verbal testimony on this point would enable crystal clarification unavailable in this alreay plethoric report.

The member of the board would have had to consider this from the point of view of what it would mean if one of them had done what Mr. Wolk had done. That would have been culpable. They would then apparently have difficulty conceiving that another person could lack the discernment of what he was doing and what he was engendering in another. I represent Leon Wolk is in that coondition even today, and was then. He lacks insight.

Mr. Wolk tries to make the board aware of the role of stress and depression. Yet apparently he is not sufficiently aware or able to appreciate the full meaning of that depression and an even greater pathology. "Depression" after all is Leon Wolk's diagnosis! He is wrong. They were wrong to accept it as merely such. Certainly they were wrong to reject it also. His pathology is far, far deeper, and pervasive.

On page 20 he cites the "depression" worsening from the time of Leon Wolk's removal as attorney of record. I respectfully submit with a sense of certainty that

1. Leon Wolk's diagnosis of the cause was wrong. And the board was wrong in accepting his inept, lay, subjectively distorted diagnosis.

2. The illness preceded that point in time in 1975. It existed prior to, during, after and since that time.

3. I opine that the illness did not stem from his removal, but vice versa. That is, probably his removal stemmed from the illness and its effect on Mr. Wolk. Judge Stern detected the obvious effects. He did not perceive (appreciate) the illness. And lacking that perception/appreciation, he angered himself with what he saw, naturally enough.

   The board seemed more compassionate, and it acknowledged Leon Wolk's role in serving the boy and asks especially about the exaggeration with Mr. Nigohosian and Barton. Mr. Wolk claims it was an initial rough draft at best, which should have been edited and revised.

P 22: The board asks why Mr. Wolk could not be frank with the court. I am impelled to be frank here. Leon Wolk had said that he could not do it. A time limit was imposed upon him. A conversation with a law clerk made Judge Stern's imperative (imperious?) determination to have it on a certain date. Mr. Wolk missed that time limit! He was told "Do the best you can." He did. His best was sick--not merely depressed. He does not grasp nuances. This fact is deceptive in reading his legal papers and seeing his syntax in court proceedings. But this is legalese and very familiar to him, almost rote to him. Propositional, spontaneous

conversation reveals far, far greater pathology. Please refer again to the psychological reports and my discussion thereof.

And Mr. Wolk was very intimidated by Judge Stern, whom he saw (paranoidly, yet with some validity) as his nemesis, hostile to him, etc.

P 22: A board member says, "Keep in mind we are all grown people here, Mr. Wolk." This indicates the board is aware Mr. Wolk is responding in less than grownup fashion.

P 23/ L 13: Mr. Wolk still insists they are errors, (typographical, mathematical, totals not balancing). He cannot admit that his mind doesn't organize at all. The board suggests "Misleading figures?" How can one call it misleading, with an accounting policeman at his elbow?

P 23: The board suggests it was an effort to bring the work up to a figure of entitlement with the contingency reserve.

P 24/ Lines 7 to 18: This is in answer to the above question. Please note the "Captain Queeg" gibberish, characteristic of much of the examination material which I uncovered, as did the psychologist. Mr. Debevoise is puzzled at the display, Mr. Wolk continues in the same nonsense vein. His arguments before the board were an almost unintelligible farce. Why did they have it?

P 24/ Lines 7 to 18, P 24/ L 21ff, P 25/ L 22ff: Mr. Wolk continues in difficult to comprehend communication. He continues the somewhat gobbledegook presentation in legalese style--yet signifying nothing and ...

P 26/ L 8: "And I realize it's probably coming across as being totally irrelevant." (I'll say! As a doctor, I'll say.) Clearly he does not comprehend sharply and this is not only a Supreme Court matter. It is a matter of life-

import to him.

He continues on not making much sense on Page 26.

P 27/ L 1 and L 16: The board is bewildered, yet they are unaware that they are witnessing pathologic communication. A review will show a vague attempt at saying words and syntax, yet no real communication of an intended message is truly discernible. (This fact would also be easier to demonstrate to court at testimony and is difficult to describe in the stilted style of a written report.)

The board recognizes that the affidavit was "out of whack" to use the vernacular. I respectfully submit that they missed that it was Mr. Wolk who was "out of whack"--and the out of whack affidavit derived from that fundamentalistic fact.

P 29/ Lines 5 to 9: All I can say here is: Huh?" And the remainder reiterates his perplexity and bewilderment and that so much of his speech, thought, behavior, affidavit's compliance, is by approximation, bluff, rote, cant, and jargon.

P 31/ L 18: Asked how many hours he had finally come down to (3,000 hours), a fundamental source of his present difficulties, Mr. Wolk responds, "I don't remember, I don't remember." He is asked about a central aspect of the affidavit which was central to the board hearing. Wolk doesn't remember 3,000 hours? He does not remember the actual fee awarded by the court! And he is acting pro se?!

P 32 continued from previous page and Lines 1 to 12: He is unclear. He is shaken. If this were a prize fight it should have been stopped as a TKO.

Mr. Wolk cannot even see clearly enough to raise the issue that he did not in fact know that he would surely collect on this case. Had the de-

fense successfully raised its issue of contributory negligence, it would have vitiated at least a large part of the settlement and thus cut out much of his contingency fee. Mr. Wolk alone thwarted that motion at a hearing dated either January 13, 1975 or January 16, 1975 (since his records seem to contain two different dates for the hearing). The board, although compassionate, cannot follow his thinking; it cannot be moved by him. They fail to recognize his inaccuracies even on clear unambiguous matters, and ask only for things which are accurate. They are accurate. Mr. wolk's mentation is not accurate.

P 34/ L 15: I assure the board that the depression (and worse) did exist as a fact, even if not raised below. The mental disease was not raised below by virtue of itself. Mr. Wolk was unsure whether it was raised! This man is defending himself, and in a heavyweight ring?

P 35: Judge Leonard asks if the "depression" extended to all portions of his practice of law or only to this one case. Mr. Wolk answers, perfectly accurately, that it applied pervasively and globally to all.

P 36/ L 24: Judge Leonard asks if Mr. Wolk heard what was said. Leon Wolk hears but does not comprehend usefully what he hears. He keeps referring to asking how to answer questions and yet he never sought counsel.

P 37: The Disciplinary Review Board cites its authority to order a psychiatric examination. True, but it never did so.

P 37, 38: The board asks Mr. Wolk how much of the amount of money he asked was excessive. I would note that at the Judge Stern hearing, at the time applying for the money, Leon Wolk did not know the answer to this question, was bewildered in compiling the figures, much to Judge Stern's irritation, q.v.

P 38: Continuing on. This entire interchange is another demonstration of that kind of failure in communication that characterizes most conversation with Mr. Wolk. Please read. Judge Leonard had no reason to apologize for misunderstanding Leon Wolk (page 39, line 2). It was not Judge Leonard's deficiency. What Leon Wolk spoke was not comprehensible.

P 40/ L 4: The comment of Mr. Debevoise that he thinks that they got the idea you're trying to convey, continues to evidence the communication failures involved.

P 41: "References made to the fact of illness below was never raised by counsel." It should be noted that Mr. Wolk's counsels usually were enlisted the last day and entered unprepared. Before the ethics committee, before Judge Stern, and it would have been before the Supreme Court had Mr. Wolk had his way and dragged Mr. Ruvolt into it. Mr. Ruvolt knew better.

P 52/ L 7: Even at that late date, Mr. Wolk is unaware of the balance owed to Mrs. Hamburger. Leon Wolk is mentally organized of nothing, in substance. He puts off again--"Makes a note" (Line 14) to "Fill in the court." Of course, he is never to do it. He probably lost the note or forgot to what it referred.

Enough is enough, and I shall deter myself from further comments on the remaining documents.

MISCELLANEOUS DISCUSSION AND SUMMARY

These are miscellaneous thoughts which I have noted at one point or another, which either do not lend themselves to inclusion systematically above, or have occurred as an afterthought but which I hesitate to omit.

As I have repeatedly indicated above, I feel Mr. Wolk was unable to competently represent himself or effectively communicate and cooperate with his attorneys, Krieger, Conway, etc. This was a result of a severe psychiatric condition which extended through both the Stern incidents and the Hamburger incident, both of which occurred before, during and after the Stern incident in the courtroom. In that courtroom I feel the judge easily enabled Mr. Wolk to "ratify" his erroneous affidavit under oath. It was in a sense good work by Judge Stern. But I feel it was like shooting fish in a barrel. I sincerely feel it would not have "caught" an intact perpetrator--and indeed I represent that no "intact perpetrator" would have even prepared so inept a "fraud."

Much of the affidavit was created by Mr. Wolk relying on his own recollection, which was faulty, and it was faulty of him not to recognize how severe that was, and the blindness was because of his illness. However, I reiterate the very gross obviousness submitted to that judge under those conditions would indicate more was involved than mere venality. An idiot Mr. Wolk was not; sick he is. I feel the court and everyone missed the central issue. Each missed it more as it became more remote from the immediacy of the courtroom. The Supreme Court can act only on what is presented. I feel even this report will deprive that court of the clarity which testimony could adduce.

In his intimidation and inability to test the reality of the result which it is producing and the reaction which he is producing, Mr. Wolk first said he did not keep detailed records, and then did present them. Everyone was alert to the fact that there would be inaccuracies, of course, so the issue now is only how much. That is a nuance of judgement which Mr. Wolk was in-

capable of. So he was forced to swear under oath to what was obviously inaccurate, and yet detailed. One must remember that affidavit was put together by a faulty mind in a hasty panic. I do not present that Mr. Wolk is a potential suicide as a reason for another person to yield to his needs, nor a spouse, certainly not the Supreme Court of New Jersey. I would cite that the same psychodynamic yields that propensity as did previous events. I feel the issue is so clear that Mr. Wolk was ill, and equally clear that the Court failed to grasp that, that the more powerful issue to present to them is the humanistic appeal for leniency in the disposition of the matter. As I have stated, I do not feel Mr. Wolk is so ill (because of what is retained of his cognitive functioning) that he would meet anything like a McNaughton test. I do feel, however, that unawareness of his illness and the misconstruing of so much of the material, because of that lack of awareness, caused the magnitude of his "wrongdoing" to lead to a punishment out of all reasonable proportion

to what Mr. Wolk is truly responsible for. As I cited in the beginning of my report, Mr. Wolk is not practicing law. He represents no danger to the public. He has no intent to practice law. A transmuting of his sentence to indefinite suspension would thus have no practical effect upon the public, but would have enormous effect upon Mr. Wolk. At the present time, this disposition, I feel, atop his basic paranoid condition, leads to a therapeutic futility, and therapy and rehabilitation is denied to him because of it.

Mr. Wolk says no other attorney has been so disbarred for a similar offense. I do not suggest that the court made an error in its judgment <u>from</u> the facts before it; I do feel sincerely that the Supreme Court may not have acted so, were they to have been so alerted. Neither for that matter probably would have Judge Stern. He might have been more compassionate than (rightfully) angry in his un-knowingness. I feel that since Mr. Wolk clearly was and is ill, that the stigma of disbarment should not any

longer be visited upon him. He in a sense might be viewed as having been denied due process because he was not competently represented, nor could he communicate truly with an attorney. It was denied by his own sloth and unawareness, and perhaps to some degree technically by the simple fact that the issue had not been raised below or early enough. But this derived not from his character, but from his illness. He never raised it; he never saw it to raise. I feel that Mr. Wolk was a victim of an entrapment de facto, not necessarily by design, but in effect. He was encouraged in his condition to swear to what was not true in one or another of an inaccurate direction; either his affidavit would minimize the amount of work he did or exaggerate it, and Mr. Wolk under the totality, the all-in-all and over-all set of conditions, internal and external, to which he was subject, was in no position to handle that nuance. I feel the Board produced a delay in speedy action for this respondent. His failure to have a quick and speedy hearing exacerbated his condition: there is universal

awareness of the tension of living under the sword of Damocles. Mr. Wolk feels this. This is not just some useful contention of the respondent. Such effects are the genuine effects of such human experiences, generally known.

Judge Stern said in the transcripts, "When Mr. Campion came, the case became organized." Perhaps so. I cannot attest here. If it were disorganized, it was further evidence of Mr. Wolk's illness, not venality and not stupidity. He clearly has a superior intelligence, even now, even residually.

Since it was "discussed" according to the record outside of Mr. Wolk's presence, this would exacerbate paranoid hostility to Judge Stern, with natural counter-antagonistic feelings, all the more exacerbated by Mr. Wolk's being unable to cross-examine his main accuser.

Review of the transcripts, however, would seem to indicae that the hearing before Judge Stern was not by its surprise nature to provide Mr. Wolk with a real opportunity to document his affidavit and support at least that part of

it which was supportable (for example, the insurance company's letters indicating indeed he had obtained their willingness to meet the medical expenses before trial), which absence contributed to Judge Stern's anger and vice versa. Thus the hearing, in effect, caught him in errors, and entrapped him into a foolish support of them or a seemingly late recanting of them. Had he been charged or given warning, I feel Mr. Wolk, if he had obtained competent counsel, may have acted differently from what he did by his entering a hearing in what he felt naively was to be pro forma.

I have read the McLaughlin article. Such inaccuracy and sarcasm I feel would upset and obsess any person, let alone one in Mr. Wolk's state of inability to contain his effusive hyperideational herniation.

I feel the affidavit was wrecklessly prepared and wrecklessly defended. That it was a known misrepresentation, I respectfully submit, is psychiatrically unlikely. No one would knowingly submit a 33-3/4 hour day.

I feel Mr. Wolk's contention that he wanted to present his request for a fee as equivalent compensation for the contingency that he lost, and hoping that that would not be seen as a grasping and self-serving act, is irrelevant to his defense. His design would be an impoverishing, self-defeating and metaphoric suicide and that design is relevant to his offense, as evidence of a clear, mitigational psychiatric disturbance. To make such an openly avowed, stupid, uncogent argument before the Supreme Court that in effect, "I was so hurt that I can cheat, deceive and perjure," is as absurd as the "33-3/4 hour day" fiasco. He repeated before the New Jersey Supreme Court what he had said before Judge Stern, and seems to continue to do so with policemen at his elbow. I feel the one argument which might be effective is the psychiatric disturbance which he did <u>not</u> raise below. Cleverness <u>would have</u> dictated that. It came to him as a last ditch insight, but it was an accurate insight, I assure you.

Mr. Wolk did not "desecrate the temple of justice." His "soiling" was an incontinence beyond his ken to avoid or contain.

Everyone knows not to manipulate Judge Herbert Stern. His brilliance is known generally, and is not to be toyed with. Leon Wolk didn't "know" because he is disturbed and sees even inkblot pictures in a psychological test distortedly.

Responding further to the Supreme Court's decision, I would agree that in both matters, his clients had a right to expect both honesty and fair dealing. However I feel these qualities were no longer available to Leon Wolk to provide to them. He was mentally and emotionally ill. The event of the Walker case contributed to the problem in the Hamburger case. He was no longer in shape even to keep his car or his clothes, etc. neat. There seems no evidence of any gross misconduct or greed or uncompassion in Mr. Wolk; mainly sloth, disorganization and confusion. There was some difficulty observed from the time in 1972 of the accidental death of his partner.

However most of the problems seem to occur after he had been discharged as the attorney in the Walker case. This was the start of his precipitous downfall from a previous erosion which commenced with his partner's death. His father's death further undermined him. He experienced an economic demise. His house, car, clothes, body odor, relationship, etc. all seemed to erode to chaos.

Please feel free to call to discuss any aspect of this complex, extensive report. You may be sure I am willing to cooperate in any way to empower you in what I feel is the pursuit of a more lenient justice in this interesting matter.

Very truly yours,

s/sEdward H. Lowell, M.D.

EHL:sdw

IT IS MY RECOMMENDATION THAT THIS REPORT NOT BE SHOWN TO THE PATIENT HIMSELF AT THIS TIME.

EDWARD H. LOWELL M.D. P.A.
372 Harding Drive, South Orange, NJ 07079
(201) 763-7769

.Graduated from Hahnemann Medical College in 1954

.Interned at Beth Israel Hospital in Newark, NJ

.Psychiatric Training
  .U.S. Army Hospital, Praesidio of San Francisco
  .New York Veterans Administration Hospital
  .New York University-Bellevue Medical Center
  .Kings County Hospital Center, Brooklyn, NY
  .Personal Psychoanalysis with Training Analyst of the New York Psychoanalytic Institute

.Licensed to Practice Medicine Since 1955 in

  .New Jersey
  .New York
  .California

.Hospital Courtesy Staff at

  .Orange Hospital Center
  .Newark Hospital Center
  .East Orange General Hospital

.Junior Staff Psychiatrist at Kings County Hospital Center

.Consulting Psychiatrist For

- .Newark Board of Education
- .New Jersey Commission for the Blind and Visually Handicapped
- .Pequannock Valley Mental Health Center
- .Essex County Courts
- .Union County Courts
- .Offices of the County Prosecutor of Essex, Union, Passaic and Middlesex Counties
- .Offices of the Public Defender of Essex, Union and Bergen Counties
- .U.S. Attorney's Office
- .U.S. Public Defender's Office
- .United States Department of Health, Education and Welfare

.Memberships in

- .Essex County Medical Society
- .New Jersey State Medical Society
- .New York State Medical Society
- .New Jersey Psychiatric Society
- .American Medical Association
- .American Psychiatric Association
- .New Jersey Academy of Medicine

.Specialty Certification in

- .Diplomate, American Board of Psychiatry and Neurology
- .Qualified (Certified) Psychiatrist, New York State
- .Diplomate, National Board of Medical Examiners

.Military Service

- .Psychiatric Resident, U.S. Army Hospital, Praesidio of San Francisco
- .Captain, Medical Corps; Regimental Surgeon, 8th Cavalry Regimental Combat Team

.Adjunct Faculty, Lecturer in Law-Psychiatry and Law
Rutgers University School of Law

.Guest Participant-Seminar: Criminal Law
Rutgers University School of Law

.Guest Lecturer
The College of Medicine and Dentistry of NJ

.Member of Medico-Legal Cooperation Committee
Essex County Medical Society

.Member of Judicial Committee
Essex County Medical Society

.Private Practice of Psychiatry since 1960 in South Orange, NJ

.Author, Chapter on "Competency", Medico-Legal Digest For NJ Psychiatrists, Published by the NJ Psychiatric Association

Daily News, Wednesday, December 22, 1976

John McLaughlin

The Member of the Solid Gold Bar

U.S. District Court Judge Herbert J. Stern recently said in a speech that the cost of justice in America is a lot more expensive than it ought to be and that the system for allocating legal costs is "irrational, rigid, often unjust."

He might have added that the system is venal from time to time, too.

Take the case of Robert Walker of North Bergen, who was seven-years-old in 1973 when he was crushed beneath a steel beam that fell off a truck. He survived, but he will spend the rest of his life in a wheelchair.

His parents sued the steel company for $6 million. The case went to trial but was settled out of court for $1 million in cash, plus the agreement by the company to take care of Robert's medical expenses for the rest of his life.

The Walkers' attorney was Leon S. Wolk of Fort Lee. He submitted a bill for $197,000. Wolk took the case on a contingency basis. If he won he would get a percentage of the settlement, including the estimated value of the medical costs. If he lost, he would get nothing. But there was no way he could lose.

Judge Stern thought that the bill for $197,000 was a trifle high and held a hearing in April 1975. It turned out

Wolk had based his fee on a total settlement of $1.6 million.

How did he arrive at a figure of $600,000 for estimated medical costs?

Well, he had doubled the insurance company's estimate of $240,000 for life-time medical expenses, then added on another $120,000 just in case, a reading of the transcript shows.

When did he start working for the Walkers? Wolk's affidavit showed him representing them on June 20, 1973, which was nine days before the accident occurred. Wolk conceded that was an error. He must have started on June 30.

But the Walkers recollected it was more like mid-July, and, indeed, the

retainer certificate that the Walkers signed (in blank) showed a date of July 19. The Walkers got their copy of that document two years after they signed it.

Late start or no, Wolk put in a truly extraordinary amount of time on the case, his affidavit said. He, himself, worked 3,000 man-hours, another lawyer in the next office put in over 500 hours, 160 of them conferring with Wolk.

A para-legal aide put in a bunch of time, too. Wolk said he spent 48 hours in conference alone with doctors consulting about the psychological effects of the accident on Robert.

He also had set aside $10,000 from the settlement to cover expenses, had paid

out $4,200 from that fund and hadn't returned the balance.

And despite the fact that he was representing both Robert and his parents and that any legal work done for the boy duplicated what he was doing in behalf of the parents for billing purposes, Wolk treated them as separate cases.

The hearing resumed in September and this time Wolk brought along a lawyer. Stern wanted to know about all those hours that Wolk put in. Where were his diaries? Wolk didn't have any.

But with total recall, he had submitted 40 pages listing his working hours on the case. And, how he worked: 17-hour days on the Walker case were

nothing. Twenty hour days were routine and on one memorable day, April 11, Wolk, according to his affidavit, put in almost 34 hours.

At the conclusion of all this, Stern threw out the contingency fees, saying there wasn't any way Wolk could lose the case; nor was there any way he could avoid winning a huge settlement.

He set Wolk's fee at $60,000. A court-appointed attorney who actually tried the case while Wolk sat and watched, got $45,000. The judge said he was "shocked and repelled" at the whole business.

But in a way, he might have been a little hard on Lawyer Wolk.

After all, when you are working 34 hours a day, who has time to keep detailed records?

Leon S. Wolk
260 Nagle Street
Bound Brook, New Jersey 08805
(201) 469-0042

Hon. Stephen W. Townsend, Clerk
Supreme Court of New Jersey
Office of the Clerk
Richard J. Hughes Justice Complex
CN 970
Trenton, New Jersey 08625

Re: In re Wolk, No. D-18 September Term 1979
82 N.J. 326 (1980)
Motion To Set Aside Order of Disbarment
etc.

Dear Mr. Townsend,

April 27, 1984
Hand Delivered

Enclosed herewith please find original and eight copies of Motion, Brief and Appendix To Set Aside Order of Disbarment and For Reinstatement As An Attorney At Law.

Kindly advise if argument on within motion is directed by the Supreme Court of New Jersey.

Respectfully submitted,

s/s Leon S. Wolk
Respondent, pro se

c.c.
encl.
Robert Huey
Clerk Committee On Grievances
Committee on Grievances
United States Courthouse
Third Street and Constitution Ave. N.W.
Washington, D.C. 20001
Attorney Grievance Docket No. 80-2

Leon S. Wolk
260 Nagle Street
Bound Brook, NJ 08805

Committee on Grievances
United States Court House
Third Street and Constitution Ave. N.W.
Washington, D.C. 20001

Attention: Robert Huey, Clerk Committee on Grievances

In re Leon S. Wolk, Respondent A Member of the Bar of the United States District Court for the District of Columbia Attorney Grievance Docket No. 80-2

Dear Mr. Huey, May 14, 1984

Enclosed please find a true copy of Order dated May 8, 1984 of the New Jersey Supreme Court wherein respondent's motion for reinstatement was denied.

I respectfully request an independent review by your Committee on Grievances in accordance with Rule 4-3(II) of the United States District Court Rules-D.C. I have previously fowarded to your office various pleadings and supporting documents relevant thereto.

I await your advice accordingly.

encl.
Order NJ Sup. Ct.
5/8/84

Respectfully submitted,
Leon S. Wolk
Respondent pro se

UNITED STATES DISTRICT COURT FOR THE DISTRICT

OF COLUMBIA - COMMITTEE ON GRIEVANCES

UNITED STATES COURT HOUSE, WASHINGTON, DC 20001

May 18, 1984

Mr. Leon S. Wolk
260 Nagle Street
Bound Brook, New Jersey 08805

Dear Mr. Wolk:

Thank you for your letter dated 5/14/84 and enclosed copy of Order dated May 8, 1984 of the Supreme Court of New Jersey denying the application for reinstatement.

These have been forwarded to the Chairman of the Committee for further response. You shall be advised of the Committee's action.

Very truly yours,
s/s Robert C. Huey, Clerk, Comm. on Grievances

AMENDMENT V - CAPITAL CRIMES; DOUBLE JEOPARDY; SELF-INCRIMINATION; DUE PROCESS; JUST COMPENSATION FOR PROPERTY

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use,

without just compensation.

AMENDMENT VI - JURY TRIAL FOR CRIMES, AND PROCEDURAL RIGHTS

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

EX POST FACTO 1 9, cl. 3

Section 9, Clause 3. Bill of attainder and ex post facto laws.

No Bill of Attainder or ex post facto Law shall be passed.

1 10, cl.1

Section 10, Clause 1, continued. Bills of attainder; ex post factor laws

* * * pass any Bill of Attainder, ex post factor Law, ***

AMENDMENT XIV - CITIZENSHIP; PRIVILIGES AND IMMUNITIES; DUE PROCESS; EQUAL PROTECTION; APPORTIONMENT OF REPRESENTATION; DISQUALIFICATION OF OFFICERS; PUBLIC DEBT; ENFORCEMENT

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives of Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number

of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President or Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or

comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

State courts; appeal, certiorari

28 U.S.C. sec. 1257 (3)

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:

(3) By Writ of Certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a State statute is drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties, or statutes of, or commission held or

authority exercised under, the United States.

For the purposes of this section, the term "highest court of a State" includes the District Of Columbia Court Of Appeals.

28 U.S.C. Rule 8

Rule 8. Disbarment

Where it is shown to the court that any member of its bar has been disbarred from practice in any State, Territory, District, Commonwealth, or Possession, or has been guilty of conduct unbecoming a member of the bar of this court, he will be forthwith suspended from practice before this court. He will thereupon be afforded the opportunity to show good cause, within forty days, why he should not be disbarred. Upon his response to the rule to show cause, or upon the expiration of the forty days if no response is made, the court will enter an appropriate order; but no order of disbarment will be entered except

with the concurrence of a majority of the justices participating.

U.S. DISTRICT COURT RULES - D.C.

RULE 4-3(II)

DISCIPLINE IMPOSED BY OTHER COURTS

(a) Any attorney admitted to practice before this court shall, upon being subject to public discipline by any other court of the United States or the District of Columbia, or by a court of any state, territory, commonwealth or possession of the United States, promptly inform the Clerk of this court of such action.

(b) Upon the filing of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before this court has been disciplined by another court, this court

shall forthwith issue a notice directed to the attorney containing:

(1) a copy of the judgment or order from the court; and

(2) an order to show cause directing that the attorney inform this court within 30 days after service of that order upon the attorney, personally or by mail, of any claim by the attorney predicated upon the grounds set forth in (D) hereof that the imposition of the identical discipline by the court would be unwarranted and the reasons therefor.

(c) In the event the discipline imposed in the other jurisdiction has

has been stayed there, any reciprocal discipline imposed in this court shall be deferred until such stay expires.

(d) Upon the expiration of 30 days from service of the notice issued pursuant to the provisions of (B) above, this court shall impose the identical discipline unless the respondent-attorney demonstrates, or this court finds, that upon the face of the record which the discipline in another jurisdiction is predicated it clearly appears:

(1) that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(2) that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this court could not, consistent with its duty, accept as final the conclusion on that subject; or

(3) that the imposition of the same discipline by this court would result in grave injustice; or

(4) that the misconduct established is deemed by this court to warrant substantially different discipline.

Where this court determines that any of said elements exist, it shall enter such other order as it deems appropriate.

(e) In all other respects, a final adjudication in another court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in the Court of the United States.

(f) This court may at any stage appoint the Committee on Grievances to prosecute the disciplinary proceedings.

DISCIPLINARY RULES

DR 1-102 Misconduct.

(A) A lawyer shall not:

(4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

(5) Engage in conduct that is prejudicial to the administration of justice.

(6) Engage in any other conduct that adversely reflects on his fitness to practice law.

DR 5-104 Limiting Business Relations with a Client.

(A) A lawyer shall not enter into a business transaction with a client if they have differing interest therein and if the

client expects the lawyer to exercise his professional judgment therein for the protection of the client, unless the client has consented after full disclosure.

DR 5-105 **Refusing to Accept or Continue Employment if the Interests of Another Client May Impair the Independent Professional Judgment of the Lawyer.**

(B) A lawyer shall not continue multiple employment if the exercise of his independent professional judgment in behalf of a client will be or is likely to be adversely affected by his representation of another client, except to the extent permitted

under DR 5-105(C).

(C) In situations covered by DR 5-105 (A) and (B) except as prohibited by rule, opinion, directive or statute, a lawyer may represent multiple clients if he believes that he can adequately represent the interests of each and if each consents to the representation after full disclosure of the facts and of the possible effect of such representation on the exercise of his independent professional judgment on behalf of each.

DR 7-102 Representing a Client Within the Bounds of the Law.

(A) In his representation of a client,

a lawyer shall not:

(5) Knowingly make a false statement of law or fact.

NEW JERSEY RULES OF CIVIL PROCEDURE

Rule 1:20-2(f)

(f) Mental or Physical Disability. The District Ethics Committee shall inquire into and report to the Disciplinary Review Board respecting any information received by it either during the course of a disciplinary hearing or otherwise indicating that an attorney is unable properly to attend to his practice by reason of mental or physical disability or addiction to drugs or other intoxicants, and may recommend medical examination or other appropriate action.

Rule 1:20-3(f)

(f) Proceedings on a Showing of Mental or Physical Incapacity.

Upon report by a District Ethics Committee or by the Administrative Director of the Courts indicating the necessity for the medical examination of an attorney whose mental or physical competence has been questioned and whether disciplinary proceedings are pending, the Disciplinary Review Board, on hearing on notice, may direct that the attorney submit to an appropriate examination or may make such other recommendation to the Supreme Court as it deems appropriate. Further proceedings in respect of such attorney following the examination shall be as directed by the Disciplinary Review Board.

1:20-11. Proceedings Upon Declaration or Allegation of Incompetency or Mental Incapacity

(b) Determination of Alleged Incapacity During Pendency of Disciplinary Proceedings. If during a disciplinary proceeding, the Supreme Court has ordered a mental or physical examination pursuant to R. 1:20-4(g), a report thereof shall be submitted to the Supreme Court. If on the basis of the report and after such further inquiry as the court may make; the court is satisfied that the attorney has not the capacity to practice law, it may enter an order suspending him from the practice of law and hold in abeyance the pending disciplinary proceeding, notice

of the order to be given as provided in paragraph (a) hereof, or the Supreme Court may direct the ethics committee before which the matter is pending to take such further action as the Supreme Court may deem appropriate. If, prior to the entry of an order for examination pursuant to R. 1:20-4(g), a respondent alleges that he is disabled by reasons of mental infirmity, illness or addiction to drugs or intoxicants, the Supreme Court may enter an order suspending him from the practice of law and directing an examination to be made as provided by R. 1:20-4(g) and it may, following the examination, proceed as herein provided.

(c) Determination of Incapacity Where No Disciplinary Proceedings Are Pending. The Supreme Court on application of the ethics committee of the county wherein an attorney either practices law or resides, which has good cause to believe that an attorney against whom no disciplinary proceeding is pending is suffering from a mental infirmity, illness or addiction to drugs or intoxicants rendering him unfit to continue the practice of law, or the court on its own motion, may order an examination in the manner provided by R. 1:20-4(g) and, if such an order is entered, further proceedings thereon shall be held as prescribed by paragraph (b) hereof.

NEW JERSEY STATUTES

N.J.S. 2C:4-1. Insanity defense

A person is not criminally responsible for conduct if at the time of such conduct he was laboring under such a defect of reason, from disease of the mind as not to know the nature and quality of the act he was doing, or if he did know it, that he did not know what he was doing was wrong. Insanity is an affirmative defense which must be proved by a preponderance of the evidence.

N.J.S. 2C:4-2 Evidence of mental disease or defect admissable when relevant to element of the offense

Evidence that the defendant suffered from a mental disease or defect is ad-

missible whenever it is relevant to prove that the defendant did not have a state of mind which is an element of the offense. In the absence of such evidence, it may be presumed that the defendant had no mental disease or defect which would negate a state of mind which is an element of the offense. Mental disease or defect is an affirmative defense which must be proved by a preponderance of the evidence.

N.J.S. 2C:4-4. Mental incompetence excluding fitness to proceed

a. No person who lacks capacity to understand the proceedings against him or to assist in his own defense shall be tried, convicted or sentenced for the commission of an offense so long as such

incapacity endures.

N.J.S. 2C:4-6. Determination of fitness to proceed; effect of finding of unfitness; proceedings if fitness is regained; post-commitment hearing

a. When the issue of the defendant's fitness to proceed is raised, the issue shall be determined by the court. If neither the prosecutor nor counsel for the defendant contests the finding of the report filed pursuant to section 2C:4-5, the court may make the determination on the basis of such report. If the finding is contested or if there is no report, the court shall hold a hearing on the issue. If the report is is received in evidence upon such hearing, either party shall have the right

to summon and examine the psychiatrists who joined in the report and to offer evidence upon the issue.

b. If the court determines that the defendant lacks fitness to proceed, the proceeding against him shall be suspended, except as provided in subsection c. of this section. At this time, the court may commit him to the custody of the Commissioner of Human Services to be placed in an appropriate institution if it is found that the defendant is so dangerous to himself or others as to require institutionalization, or it shall proceed to determine whether placement in an out-patient setting or release is appropriate; provided, however, that no commitment to any

institution shall be in excess of such period of time during which it can be determined whether it is substantially probable that the defendant could regain his competence within the foreseeable future.

c. If the defendant has not regained his fitness to proceed within such time as the court may deem adequate from the time that it was determined that the defendant lacked such fitness, the court shall after a hearing, if one is requested, dismiss the charges and either order the defendant discharged, or, subject to law governing civil commitment, order the defendant committed to an appropriate institution. When the charges are not dismissed, each defen-

dant's case shall be specifically reviewed by the court at six-month intervals until an order is made by the court that the defendant stand trial or that the charges be dismissed.

d. When the court, on its own motion or upon application of the commissioner, his designee or either party, determines after a hearing, if a hearing is requested, that the defendant has regained fitness to proceed, the proceedings shall be resumed.

e. When the court, on its own motion or upon application to the commissioner, his designee, or either party, determines after a hearing, if a hearing is requested, that the defendant has not regained fitness to proceed, the court

may order the institution of civil commitment proceedings, or, if it is found that the defendant may be paroled or released on condition without danger to himself or to others, the court may so order. If it is found that the defendant may be paroled or released on condition without danger to himself or to others, the court may so order. If it is determined that it is not substantially probable that the defendant will regain his competence in the foreseeable future, the court may dismiss the charge and either order the defendant to be discharged, or, subject to the law governing the civil commitment, order the defendant committed to an appropriate institution.

f. The fact that the defendant is unfit to proceed does not preclude determination of any legal objection to the prosecution which is susceptible of fair determination prior to trial and without the personal participation of the defendant.

NEW JERSEY CONSTITUTION

N.J.S. Const. Art. 1, par. 1.

1. Natural and unalienable rights

1. All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.

N.J.S. Const. Art. 1, par. 10.

10. Rights of persons accused of crime

10. In all criminal prosecutions the accused shall have the right to a speedy and public trial by an impartial jury; to be informed of the nature and cause of the accusation; to be confronted with

the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel in his defense.

N.J.S. Const. Art. 4, sec. 7, par. 3

3. Bills of attainder; ex post facto laws; contracts

3. The Legislature shall not pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or depriving a party of any remedy for enforcing a contract which existed when the contract was made.

N.J.S. Const. Art. 6, sec. 2, par. 3

3. Supreme Court, rules; admission to practice law; discipline of persons admitted

3. The Supreme Court shall make rules governing the administration of all courts in the State and, subject to the law, the practice and procedure in all such courts. The Supreme Court shall have jurisdiction over the admission to the practice of law and the discipline of persons admitted.